

SECTION 135 WARRANT TO SEARCH FOR AND REMOVE PATIENTS PROTOCOL

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CHANGE RECORD

Version	Date	Change details
3.01	14.5.12	<i>Reviewed no major changes</i>
4.00	13.01.14	<i>Reviewed, major changes. Now includes process for Section 135(2) including differences between both Hull and East Riding local authorities</i>
4.01	01.12.16	<i>Reviewed to include section in relation to payment of warrants for S135(2)</i>
4.02	27/04/17	<i>Flowchart added in relation to request for MHA assessments. Also included comments from Humberside Police Service (Pages 4 and 5).</i>
4.03	11/12/17	<i>Reviewed in line with amendments from the Policing and Crime Act 2017, RRS name changed to MHRS, MD name changed, and minor changes to procedure for obtaining warrants out of hours.</i>
4.04	09/07/19	<i>Reviewed in relation to new payment arrangements for warrants and updated warrant application forms.</i>
5.0	19/03/21	<i>Full review – new process for acquiring warrants (pages 8 & 9)</i>

5.1	29/09/21	<i>Additions made to pages 5&6 regarding where legally an assessment can be carried out, things you have to check if you want to do an assessment at someone's house and whose permission you need to seek for it. This is consistent with the Code of Practice and the Policing and Crime Act. Also amended on Page 7 payment by account number for S135(2) warrants.</i>
5.2	05.07.24	<i>Clarity added regarding whose responsibility it is to decide whether to remove the person to a place of safety for the purpose of MHA assessment and transport arrangements (page 9). Minor amendments to AMHP responsibilities (pages 6, 7 and 8). Approved at Mental Health Legislation Steering Group (17 July 2024).</i>

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1. INTRODUCTION

This Protocol deals with entry to premises under the Mental Health Act 1983 (The Act) and powers to temporarily remove people, who appear to be suffering from a mental disorder to a place of safety or are absent without leave and are subject to be returned to hospital in accordance with Section 18.

2. SCOPE

This protocol and its procedure applies to all Trust operational staffing, contracted agency staff and supporting agencies which access and provide inpatient care that focuses on treatment.

3. PROTOCOL STATEMENT

The aim of this protocol is to provide the necessary guidance and procedures when one has to deal with entry to premises under the Act and temporarily remove people who appear to be suffering from a mental disorder to a place of safety.

4. DUTIES AND RESPONSIBILITIES

Chief Executive:

The Chief Executive in partnership with the Local Social Services Authorities (LSSA) has responsibility to ensure that policies, protocols and processes of a multiagency perspective are in place for the Trust staff to understand regarding the implementation of Section 135.

Executive Director of Nursing, Allied Health and Social Care Professionals

Caldicott Guardian:

The Executive Director of Nursing, Allied Health and Social Care Professionals Caldicott Guardian is responsible for ensuring that procedures are understood and carried out by nursing, allied health and social care staff involved in the implementation of Section 135.

Medical Director:

The Medical Director as lead director has responsibility for the development, review / monitoring of this protocol and for the appropriate training and education to support implementation and is responsible for ensuring that procedures are understood and carried out by medical staff involved in the implementation of Section 135.

Divisional Clinical Leads:

All Divisional Clinical Leads are responsible for ensuring that this protocol is implemented within their divisions.

Modern Matrons, Team Leaders and Charge Nurses:

Modern Matrons, Team Leaders and Charge Nurses are responsible for implementing operational systems to ensure adherence to the principles and standards of the protocol.

5. PROCEDURES

Sections 80-83 of the Policing and Crime Act 2017 amend s135/6 MHA in the following ways, with the four highlighted changes having the most significant implications for the NHS:

- **it is unlawful to use a police station as a place of safety for anyone under the age of 18 in any circumstances;**
- **a police station can only be used as a place of safety for adults in specific circumstances, which are set out in regulations;**
- **the previous maximum detention period of up to 72 hours will be reduced to 24 hours (unless a doctor certifies that an extension of up to 12 hours is necessary);**
- where a section 135 warrant has been executed, a person may be kept at their home for the purposes of an assessment rather than being removed to another place of safety (in line with what is already possible under section 136);
- a new search power will allow police officers to search persons subject to section 135 or 136 powers for protective purposes.

Please note in the Humberside police force region no-one who is detained under S136 is taken to a police station.

Search

The police may search the person, at any time while the person is so detained, if the officer has reasonable grounds for believing that the person may present a danger to himself or herself or to others, and is concealing on his or her person an item that could be used to cause physical injury to himself or herself or to others.

The power to search is only a power to search to the extent that is reasonably required for the purpose of discovering the item that the officer believes the person to be concealing. There is no authority to request a person remove any of his or her clothing other than an outer coat, jacket or gloves, but does authorise a search of a person's mouth.

This does mean police cannot search intimately which can cause operational risks that staff should be aware of. Other than the clothing stated, garments cannot be removed or searched.

Police are not able to routinely search people detained under S135, or their bags/belongings, without reasonable grounds for believing that the person searched might use it to cause physical injury to himself or herself or to others. An officer searching a person in the exercise of the power to search may seize and retain anything found.

Should the service user need to be removed to a PoS and they have not been searched prior to arrival at the suite and the police are still in attendance, the Trust staff can request that the police officers conduct the search, as per the law available, along with Trust staff. It is also important to consider gender appropriateness, privacy and dignity when undertaking all searches upon a Service user.

It is expected that the attending officers then engage in recording property, jointly, with MHRS staff. All items deemed to be of risk to the individual or staff will be removed and stored securely until resolution of the detention. Such items will either be returned to the individual if deemed appropriate or handed over, with a receipt of exchange; to the receiving organisation a small safe is available for valuable items.

If there is a current or historical ligature risk consideration should be made of removing items such as belts or shoes, slippers can be provided in these situations and rationale should be clearly documented in the notes.

Procedure - Section 135(1)

This section provides for a magistrate to issue a warrant authorising a constable to enter premises using force if necessary for the purpose of removing a mentally disordered person (WHO IS NOT LIABLE TO BE DETAINED) to a place of safety for a period not exceeding 24 hours, or carrying out a MHA assessment in the person's home, with their consent.

A warrant under this subsection can only be applied for by an AMHP who must give evidence on oath to a Justice of the Peace about a person who the AMHP has reasonable cause to suspect to be suffering from a mental disorder and:-

- Has been or is being ill-treated, neglected or kept otherwise than under proper control on the premises or
- Is living there alone and unable to care for themselves
- The purpose is to remove the person concerned to a place of safety (PoS) with a view to an application for detention under Part 2 of the Mental Health Act or for other arrangements to be made for the persons treatment or care.

AMHPs are responsible for:

- Taking the lead role in co-ordinating and undertaking assessments under the Mental Health Act and within this section making an application and arranging to present the application to the Magistrate for them to then decide whether to authorise the warrant.
- Communicating with Police to provide details of the warrant and making arrangements to ensure professionals stipulated within the warrant are present to execute said warrant (Constable, Doctor and AMHP). There needs to be a discussion before any action takes place at the address so everyone knows who is doing what and how the process will be managed.
- Coordinating the time and place of the assessment and ensuring that all the necessary parties are present and suitably briefed.
- Ensuring that communication with and between all individuals and agencies involved in the assessment process is maintained as effectively as possible.
- AMHPs are responsible for ensuring their own safety and must adhere to their relevant lone worker policy and consideration must be given to whether other professionals are required to support the AMHP in undertaking their duties.
- Giving Police sufficient information to enable them to assess the level of risk that is likely to be encountered so they can ensure the safety of all concerned. (This includes the details of any risk assessment conducted and any other information that may be relevant to the individual or premises – this will be recorded within the AMHP's record of assessment, the AMHP is required to ensure this information is also available on the health database). Officers are required to remain present until the assessment is concluded and the safety of the person and those involved is assured.

- The person may require conveyance from their home to the place of safety for the purpose of assessment or concluding the outcome of the assessment resulting in compulsory admission. The AMHP will need to consider which vehicle is most appropriate to safely transport or convey the person (see conveyance policy for further details).
- AMHPs will need to consider whether secure transport is appropriate and Humber Teaching NHS Trust have access to private secure patient transport services if required, through consultation with the bed management team at HTFT.
- Where there is a possibility of the person needing to be removed to a PoS this needs to be discussed with Police in advance and appropriate transportation and PoS considered and arranged.
- Ensuring that the admission papers are received by authorised hospital staff at the point of admission.
- In conjunction with other professional staff involved, ensure that the person is safely admitted.
- Making appropriate arrangements for securing the person's property in conjunction with the police. (Both securing premises and arranging to bring essential personal items to the hospital with the person as necessary).
- Ensuring that the relevant information/report about the person's circumstances is received on the ward to which the person is being admitted, regardless of whether the person is being admitted formally or informally.
- In conjunction with other professional staff involved, ensure that the person is safely admitted.

Once an AMHP has made an application for a person's admission, section 6 MHA 1983 provides authority for them to convey the patient to hospital. The patient is liable to be detained when the application is completed by the AMHP and that person is then, by virtue of section 137 MHA 1983, in the AMHP's legal custody. Reasonable force may be used (by the AMHP) to convey the patient as necessary and proportionate.

The AMHP may delegate their authority under section 6 to others. This would typically be to a police officer and/or paramedic who would then also have the right to use reasonable force to detain and convey the patient to hospital. Nothing obliges another person to accept the AMHP's delegated authority under section 6. Once authority has been delegated to another person (a police officer or paramedic), decisions about conveyance and the use of restraint lie with the person with delegated authority.

AMHPs should make decisions on which method of transport to use in consultation with the other professionals involved, the patient and (as appropriate) their carer. The decision should be made following a risk assessment carried out on the basis of the best available information. 17.12 Code of practice 2015

If the patient is likely to be unwilling to be moved, the applicant will need to provide the people who are to transport the patient (including any ambulance staff or police officers involved) with authority to transport the patient. This will give them the legal power to

transport patients against their will, using reasonable force if necessary, and to prevent them absconding en route. 17.13 Code of Practice 2015

If the patient presents in a way that is unsafe or there is a risk of serious harm to themselves or others, the police should be asked to assist in accordance with locally agreed arrangements. Where practicable, given the risk involved, an ambulance service (or similar) vehicle should be used even where the police are assisting. 17.14 Code of Practice 2015

The test for the police is whether there are RAVE risks associated with the request for assistance. RAVE – resist, aggression, violent, escape. Should any of these circumstances occur or be likely the police should use reasonable and proportionate force if necessary to transport the patient to the hospital.

If the person has not consented or did not have capacity to consent to an assessment under the MHA taking place at the address specified on the warrant and they are conveyed to a PoS they may be detained for a period of no longer than 24 hours from the time they arrive at the PoS. **NB. A warrant under this subsection need not name the patient, but must specify the premises to be entered. The Warrant can only be used once and entry under this warrant must be within three months of the date of its issue; if not executed it must be returned to court within 28 days.**

The power to execute the warrant lies with the Constable only. When executing the warrant the Constable **MUST** be accompanied by both an AMHP **AND** a Registered Medical Practitioner.

The AMHP will be responsible for seeking the involvement of the appropriate Medical Practitioner(s) (see Appendix B flowchart), and arrangements for the involvement of the Police, once the warrant has been issued.

The AMHP, in determining the choice of Medical Practitioner to accompany him/her and the Constable executing the warrant, shall have regard to the provisions of the Codes of Practice to the Mental Health Act 1983. In so far as is practicable the accompanying Medical Practitioner should have had previous acquaintance with the patient, in his/her professional capacity. Where this is not possible the accompanying Medical Practitioner should be “Approved” under Section 12 of the Act.

Section 135(1) permits entry to the premises and removal of the patient where appropriate. However, some assessment of the circumstances should take place to determine what action is appropriate. A mental health Act assessment could take place at the persons home address if it is safe and appropriate to do so and the person consents to this and has capacity to do so. In addition, consideration must be given to who lives at the property, which will determine the consent required to use this property as a place of safety in order to carry out a Mental Health Act Assessment:

Scenario	Agreement required
If the person believed to be suffering from a mental disorder is the sole occupier of the place	That person agrees to the use of the place as a place of safety
If the person believed to be suffering from a mental disorder is an occupier of the place but not the sole occupier	Both that person and one of the other occupiers agree to the use of the place as a place of safety

If the person believed to be suffering from a mental disorder is not an occupier of the place	Both that person and the occupier (or, if more than one, one of the occupiers) agree to the use of the place as a place of safety
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The police officer should ensure that the relevant persons understand the purpose for which the place will be used, and the support arrangements that will be put in place to safeguard the person (and any others present) pending an assessment. It should be made clear that there is no legal obligation on them to agree to such a request. The request for and giving of this agreement should be recorded by the AMHP.

If the person does not consent or does not have capacity to consent to an assessment at the address specified on the warrant and / or it is not considered safe to undertake the assessment at the premises, a decision will need to be made whether to transport the person to a place of safety in order for an assessment under the MHA to take place. It is good practice for this decision to be made jointly between the AMHP, registered medical practitioner and the constable present. This section does not specify whose decision this is. It is suggested that the constable's role is to gain entry to the premises and to ensure the safety of the doctor and the AMHP, whose joint role is to assess whether the person should be removed to a place of safety for further assessment there (MHA Manual, Jones 25th edition, P649). If felt appropriate to take to a place of safety the provisions as set out subject to Joint Agency 136 Protocol should be followed i.e. triage, risk assessment to ascertain the most appropriate agency to undertake the conveyancing to the unit/place of safety.

In *Ward v Commissioner of Police for the Metropolis* [2005] UKHL, Lady Hale said that “professionals should be able to help the police officer to decide whether or not it is ‘fit’ to take the person concerned to a place of safety. Although para 16.16 Code of Practice states that the police should not normally be needed to transport the person or to escort for a S135 warrant” this provision allocates responsibility for transporting the patient to the police. In *Ward*, Lady Hale said “it may be that the police officer can authorise others, such as the ambulance service or an AMHP to transport the person to the place of safety rather than doing it himself.

When taking the person to a place of safety on a section 135 warrant, the AMHP, hospital managers or the local authority (as appropriate) should ensure that an ambulance or other transport is available to take the person to the place of safety or to the place where they ought to be, in accordance with a locally agreed policy on the transport of patients under the Act (see chapter 17). It may be helpful for the AMHP to escort the person or meet them on arrival at the place of safety, in order to ensure continuity of care and to provide information for the hand-over. The police should not normally be needed to transport the person or to escort them for a section 135 warrant (MHA Code of Practice 16.16).

If it is needed to make the property secure or organise the provision of pets' accommodation it may be necessary to contact Locksmiths, kennels, joiners, etc. For all AMHPs working within the Hull boundary please refer to the HCC Policy on the Protection of Property and Pets. The costs/invoices for Hull AMHPs should be sent to Hull City Council, who has a list of contractors available out of hours and at weekends. For the East Riding Local Authority, they have their own invoicing process.

The 24 hours starts from the time the person arrives at the place of safety. If the person escapes they can be retaken but not after the 24 hour period has ended.

Payment of warrant fees is required up front by the Courts and each of the Local Authorities have their own methods of pre-payment arrangements.

Hull City Council have been allocated a PbA Account Number - **PBA0083697** specifically for their **S135(1) warrants** or S135(2) warrants where an application has been made for detention but the patient is refusing entry to their property in order to prevent conveyance.

Procedure - Section 135(2)

This section provides for a magistrate to issue a warrant authorising a constable to enter premises using force if necessary for the purpose of removing a mentally disordered person (WHO IS ALREADY LIABLE TO BE DETAINED – it also applies to a CTO – once a CTO 3 recall notice has been served) and a patient under guardianship if patient is AWOL from their specified address. If a guardianship patient is refusing entry to their specified address the powers under S135(2) would need to be considered. A warrant under this subsection may be applied for by any constable, AMHP or any person authorised by the hospital managers to take or return patients to any place e.g. if a person is on leave and refusing to return to a mental health inpatient unit, the person applying could be a nurse on duty.

Please note that the courts usually expect that the named informant on the warrant is the same person who attends when the police serve the warrant. At the least it should be someone from the same team.

The warrant gives the constable the right to enter any premises specified in the warrant by force if necessary.

NB The premises and patient should be specified in the warrant.

When a warrant issued under Section 135(2) is being used, it is good practice (but this does not have to happen) for the police officer to be accompanied by a person with authority from the managers of the relevant hospital (or local Social Services authority (LSSA), if applicable) to take the patient into custody and to take or return them to where they ought to be.

For patients on Community Treatment Orders (CTO) it is good practice for this person to be, if applicable, a member of the multi-disciplinary team responsible for the patient's care.

Payment of warrant fees is required up front by the courts. Please note:

- The Trust have now registered for the Ministry of Justice Payment by Account (PbA) service.
- The Trust have been allocated a PbA Account Number - **PBA0094072** for account named HUMBER NHS FOUNDATION TRUST for S135(2) warrants ONLY.
- This number must be quoted clearly and accurately in bold on every court claim application (under the Trust address details), on any covering letter and in all future correspondence.
- **Only applies to S135(2) warrants.** Hull City Council and East Riding of Yorkshire Council arrange for payment in relation to S135(1) warrants.

Process for Hull and East Riding during business hours

If it is felt that an application for a warrant under Section 135 is justified:-

The MH Courts & Tribunals Service procedure should be followed where applications for warrants are to be made during the working hours of 10.00am to 4.30pm (see Appendix 1).

The new arrangements have been communicated to each of the Police Forces in the NE Region. The telephone number for Humberside Police is 101.

The scheme will operate across the North East Region with applications made by telephone and paperwork being received and dispatched by secure email.

The scheme will use a web-based booking system. Applicants will use a web-based calendar to book in their warrant application on a date and time convenient to them. The calendar can be accessed 24 hours a day. Applications will be considered between 10.00am and 4.30pm Monday – Friday excluding Public Holidays.

The Team Up Calendar can be accessed by pasting a link into your internet browser. The link to the calendar has been sent to all AMHPs and all inpatient units and community teams. The link is also available via the Mental Health Legislation Team.

It is imperative that you do not include any personal details about the warrant on the Team Up calendar as the calendar is not on a secure website.

Complete relevant S135 Information form for warrant application and warrant to take or retake patient form – see links to forms on page 15.

Submitting applications: All relevant paperwork must be submitted at the time the booking is made to the secure email box, along with the applicant's contact number.

NE-WarrantApplications@justice.gov.uk. Please name your documents to include the booking reference and not the address of the premises. Bookings for which no relevant paperwork is submitted will not be accommodated by the court.

You must give the relevant PbA number in the main body of your email.

Making the application: At the designated application hearing time you will be contacted by the court and asked to verify your identity. You should be able to provide:-

- a. Booking reference;
- b. Agency applying;
- c. Your professional accreditation number
- d. Name of Officer that authorised the application, if applicable.

If the court is satisfied that they are speaking to the applicant, you will be asked to take the oath/affirm and make your application. You will need to provide your own holy book should you wish to use one. You must be ready with the oath/ affirmation at the time of your booking.

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

Applications will then be considered in the normal way as if the applicant were present in the room.

Receiving the authorised warrant: Once considered, the warrant will be electronically signed by the JP where granted. Supporting reasons for grant/refusal will be endorsed on the relevant paperwork and returned to the applicant electronically as a pdf to prevent any

subsequent amendments. Paperwork will only be dispatched to the email address from which the paperwork was received. This email address must match the email address identified in the application 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.

- Once warrant obtained arrange for assessment to be undertaken. Contact police on 101 and obtain reference number;
- Attend address with the police and execute warrant;
- Contact ambulance service on 0300 3300 295, if necessary, and obtain reference number. Ambulance should be booked once patient is ready to travel, we cannot book an emergency ambulance in advance.

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 endorsed with any relevant information relating to its execution to the following secure email address.

NE-returnedwarrants@justice.gov.uk

Please ensure 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. e.g. **MH-161220-1234Smith-1**

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

Any hard copy warrants should be destroyed in line with the Trust's guidance/policy on retention and destruction of confidential documents:

[Records-Management-and-Information-Lifecycle-Policy.htm \(humber.nhs.uk\)](#) - which covers retention periods and destruction for all Trust records.

[Health and Social Care Records Policy.htm \(humber.nhs.uk\)](#) - which covers the retention and destruction specifically for health records.

Process for Hull and East Riding out of business hours:

If it is felt that an application for a warrant under Section 135 is justified:-

The National Emergency Out of Hours Warrant Scheme HMCTS North East Region Scheme Agency Protocol should be followed where applications for warrants are to be made outside of working hours (see Appendix 2).

The Emergency Warrant Application Out of Hours number will be operational from 18:00 to 06:00 every weekday, and all-day Saturday, Sunday and Bank Holiday.

Conveyance to place of safety

Under Section 135(1) the AMHP has responsibility to ensure that the patient is conveyed to hospital in a lawful and humane manner and should give guidance to those asked to assist.

Under Section 135(2) the constable can take the patient into custody and return them to the place they need to be.

When it is agreed that the patient requires either removal to the place of safety, or has been fully assessed and requires conveyance to an inpatient unit, conveyance by an ambulance should be considered in the first instance. The police should remain in attendance until the

service user has been removed from the premises and into the ambulance. If the risk assessment dictates, the police should follow the ambulance in case the situation changes and their assistance is required.

If the person presents in a way that is unsafe or there is a risk of serious harm to themselves or others, the police should manage the whole process of entering, securing the premises and the safe removal of the service user, using police transport if necessary. Any risks should be identified on an individual basis and should be up to date and current.

CONSENT TO TREATMENT

Detaining a service user in a place of safety under Section 135 **does not** confer any power under Part 4 of the Mental Health Act to treat them without their consent. In an emergency, it may be possible to provide treatment if the service user lacks capacity to consent. If it is in the best interests of the service user to do so, treatment could be provided under the provisions of the Mental Capacity Act.

ENDING SECTION 135 (1)

The authority for detention under this section ends when the assessment process has been completed and a decision has been made. A person who is detained in hospital under Section 135 (1) pending completion of their assessment cannot have their detention extended by the use of a Section 5(2) or Section 5(4). The gatekeeping protocol should be followed at all times as per any Mental Health Act assessment.

6. EQUALITY AND DIVERSITY

The core Mental Health Act policies, protocols and procedures have been impact assessed. Where individuals are being detained or receiving treatment under the terms of the Act it is vital that no community group is treated less favourably.

Where peoples' legal status is affected we have a clear duty to inform them of their rights regardless of their language or communication difficulties. DVD's in 28 languages other than English are available on the rights of detained patients. When people with physical impairments are detained clinical staff should identify this need as soon as possible to enable the Trust to access appropriate support e.g. BSL interpreter, Independent Mental Health Advocates.

Where religious belief is important to patients this will be respected and the Trust chaplain will support access to relevant faith leaders and information. Clinical settings, wherever possible, should be able to accommodate individual prayer/meditation space with appropriate access facilities.

7. MENTAL CAPACITY

The Mental Capacity Act (2005) came into force in April 2007; therefore you must take into account these principles within the implementation of this policy.

The Principles:

- A presumption of capacity – every adult has the right to make his or her own decisions and must be assumed to have capacity to do so unless it is proved otherwise.

- The right for individuals to be supported to make their own decisions – people must be given all appropriate help before anyone concludes that they cannot make their own decisions
- That individuals must retain the right to make what might be seen as eccentric or unwise decisions.
- Best interests – anything done for or on behalf of people without capacity must be in their best interests; and
- Least restrictive intervention – anything done for or on behalf of people without capacity should be the least restrictive of their basic rights and freedoms.

Human Rights Act

The Human Rights Act came into effect in October 2000 which means that the Trust and its staff, along with its supporting agencies, are seen as a public authority and have an obligation to respect the Convention rights. That means that you must understand those rights and take them into account when carrying out this protocol and procedures.

8. IMPLEMENTATION

This protocol will be disseminated by the method described in the Document Control Policy.

All other stake holders, partners and services to be made aware of the protocol via Crisis Care concordat members and Mental Health Legislation Steering Group members and distributed via their internal systems.

9. MONITORING AND AUDIT

This protocol will be monitored via untoward incidents or PALS / complaints that arise as a result of the use of the protocol and reported to Humber Teaching NHS Foundation Trust which will then be processed at the Operation Risk Management Group and dealt with. Any issues arising can be discussed and actions taken at the Mental Health Legislation Steering Group and the Crisis Care Concordat Operational Group.

10. REFERENCES/EVIDENCE/GLOSSARY/DEFINITIONS

National Institute for Clinical Excellence (NICE) (2011) Clinical Guidance 136 - Service user experience in adult mental health: improving the experience of care for people using adult NHS mental health services.

Department of Health (2015) Mental Health Act Code of Practice. London TSO

Jones. R. (2022) Mental Health Act Manual (25th Edition). London. Sweet & Maxwell

Policing and Crime Act 2017

11. RELEVANT HFT POLICIES/PROCEDURES/PROTOCOLS/GUIDELINES

HFT – Mental Health Act Policy

HFT – Missing patient procedure and Section 18 absence without leave

HFT – Inpatient Search Policy

HFT - Conveying Policy
HFT – S136 Policy

12. LINKS

[S135-1 MHA warrant application](#)

[S135-1 Warrant template](#)

[S135-2 MHA warrant application](#)

[S135-2 Warrant template](#)

Appendix 1 – Mental Health and Immigration Warrants During Court Hours Applications in the North East Region of HMCTS - Guidance to Mental Health Professionals and Home Office Applicants in the HMCTS Clusters of Cleveland, Durham and Northumbria, North and West Yorkshire, Humberside and South Yorkshire



Mental Health and Immigration Warrants During Court Hours

Applications in the North East Region of HMCTS

Guidance to Mental Health Professionals and Home Office Applicants in the HMCTS Clusters of Cleveland, Durham and Northumbria, North and West Yorkshire, Humberside and South Yorkshire

Introduction

This guidance is produced to assist mental health professionals (MHPs) and Home Office (HO) applicants in the efficient management of warrant applications made across the North East Region.

Scope

Although this scheme is principally designed for police search warrants which form the vast majority of applications, it is also available for applications for Home Office Immigration Warrants and Mental Health warrants

Background to the scheme.

Prior to the Coronavirus restrictions limiting access to courthouses it was normal practice for MHPs and immigration officers to contact local court houses directly when they wished to make an application for a warrant. Sometimes courts were able to accommodate warrant applications immediately, but often applicants had to wait for an appropriate break in the court list or proceedings. On occasions they were asked to attend the following day or make their application to the “out of hours” scheme. Sometimes, particularly if late in the day, access to a Justice of the Peace (JP) could be difficult and delay would be caused to the applicant whilst arrangements were made for the application to be heard. Diverting such applications into court lists disrupted the efficient processing of court business and even where the applicant did not experience a delay, other court users were often kept waiting while the legal adviser and a JP considered the warrant application.

Because of the Coronavirus-related court suspensions courts in the North East very rapidly introduced a scheme for remote applications which operated independently in each of the three cluster areas with varying degrees of user experience and resourcing challenges. This

new scheme replaces entirely the three existing schemes which will be withdrawn. It does not replace the Out of Hours Scheme.

Scheme overview

The scheme will operate across the North East Region **from 8 March 2021** with applications made by telephone and paperwork being received and dispatched by secure email.

The scheme will use a web-based booking system. Applicants will use a web-based calendar to book in their warrant application on a date and time convenient to them. The calendar can be accessed 24 hours a day. Applications will be considered between 10.00am and 4.30pm Monday – Friday excluding Public Holidays.

Applications, warrants granted, and reasons for grant or refusal will be stored securely in an electronic .pdf format within a designated warrant folder. Copies of the paperwork will therefore be accessible to HMCTS should there be a requirement to produce information at a future date. The electronic storage system will ensure that storage of the relevant information complies with data security and retention timescales. Only authorised staff will have access to the secure email box and storage facility.

Legal advisers will be responsible for ensuring that relevant paperwork is both received and dispatched in good order in accordance with the guidance and that all information is correctly stored and filed.

Applications will be initially scrutinised by a legal adviser who will then provide advice on matters of law and procedure to the relevant Justice of the Peace, who will be rostered to consider such applications on any particular day.

This scheme envisages that all warrants will be considered under this scheme unless the scheme is unable to respond quickly enough to an urgent application, or the volume of warrants is such that diversion to a location court site is necessary. This scheme will operate in conjunction with and complement the “out of hours” search warrant scheme.

Benefits of the scheme

It is envisaged that the scheme will

- Ensure that warrant applications, including urgent applications, are considered in a timely manner in accordance with the law and best practice;
- Enable the vast majority of applications to be considered without disruption to the efficient processing of other court business;
- Provide an enhanced customer service within working hours and reduce both the uncertainty and delay that can be experienced when arranging to make a warrant application;
- Make best use of applicant, legal adviser and judicial time;
- Reduce dependence on the out of hours scheme
- Make best use of HMCTS estate by removing such applications from courtrooms; and
- Reduce the administrative tasks surrounding the processing, filing and storage of such applications by making best use of electronic and digital solutions.

Procedure and Guidance for Applicants.

This procedure should be followed where applications for warrants are to be made during the working hours of 10.00am to 4.30pm.

1. **Making a booking:** Book in your application using the web-based 'Team Up' calendar. Bookings can be made at any time as the calendar is available 24 hours a day, 7 days a week.
2. The Team Up Calendar can be accessed by pasting a link into your internet browser. **Links will be provided separately to MHPs and HO staff** and may only be shared with other professionals. Each user of a link is able to modify bookings made by others who have used the same link but cannot edit or affect bookings made using different links.
3. **When you can book a hearing:** Applicants can choose the date and time of their application hearing from the available time slots on the calendar. One slot should be booked for each target address. 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. Applicants are encouraged however to book in advance, thus helping the court to manage applications effectively and incorporate urgent applications at short notice. Applicants must ensure that the correct slot duration is booked. A standard slot is for 15 minutes, but longer slots can be booked if the application is lengthy. Applicants should not book longer slots unnecessarily as this blocks time for others.
4. If booking an application to be heard the same day, please try to not to use a slot within the next 30 minutes as this increases the risk of the legal adviser not seeing it in time.
5. **Booking References:** Using the guidance, create your booking reference and ensure this is recorded on the calendar in the timeslot for which your booking is made. A typical booking reference would look like this
MH-161220-1234Smith-1 (for mental health applicants)
HO-SY-161220-1234Smith-1 (for Home Office applicants)

The way in which booking references are structured is explained below. **Please also type your booking reference onto the application document**

6. **It is imperative that you do not include any personal details about the warrant on the Team Up calendar as this is a commercial product not hosted on a secure HMCTS platform.**
7. **Submitting applications:** All relevant paperwork must be submitted at the time the booking is made to the secure email box, along with the applicant's contact number.

NE-WarrantApplications@justice.gov.uk.

Please name your documents to include the booking reference and not the address of the premises. Bookings for which no relevant paperwork is submitted will not be accommodated by the court.

8. **Multiple Warrants:** Applicants should specifically note the guidance on booking multiple warrants as contained in the “Team Up” Guidance below.
9. Submit the application and warrant to the secure HMCTS email box NE-WarrantApplications@justice.gov.uk. Your application and warrant must be sent in **unprotected Word format** as the warrant will be endorsed electronically by the Magistrate or legal adviser. Please remember all documents submitted need to have the booking reference in the file name.
 - a. Check that the correct booking reference has been used on all paperwork and that you have supplied your contact phone number details in your email. This is the telephone number on which the court will contact you at the application hearing time. If you have not provided contact details the court will not be able to call you.
 - b. Check that 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.
 - c. Where authority from a senior officer is required (e.g. Chief Immigration Officer) ensure that the email contains the sequence of emails originating from that officer so that the chain of authority can be traced and authenticated. Alternatively, a scanned copy of an original signature is acceptable.
 - d. Check that only the booking reference appears in the subject line of the email for example **HO-SY-161220-1234Smith-1**.
 - e. **Do not include any other information in the subject line other than the booking reference.**
 - f. You should arrange to pay the fee in the usual way and include the fee payment reference number in the email body. If you have not been able to pay the fee in advance you will need to give an undertaking to pay within 48 business hours.
10. Only legal advisers approved to support the regional duty warrant scheme will have access to the secure email box.
11. Where paperwork or information is missing, including the booking reference, the duty 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.
12. 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 applicants to ensure that their paperwork complies with the requirements of the scheme by submitting the correctly prepared documents and in unprotected Word format.
13. **Making the application:** At the designated application hearing time you will be contacted by the court and asked to verify your identity. You should be able to provide:-
 - a. Booking reference;
 - b. Agency applying;
 - c. Your professional accreditation number, if applicable

- d. Name of Officer that authorised the application, if applicable.
 - e. The fee payment reference number.
14. Once the court is satisfied that they are speaking to the applicant, you will be asked to take the oath/affirm and make your application. You will need to provide your own holy book should you wish to use one. You must be ready with the oath/ affirmation at the time of your booking (see below).
15. It is important that applicants are at an appropriate private location to receive the court's call to ensure that the information they will provide cannot be overheard, as it will not be possible to delay the application in order to facilitate the applicant moving to another location
16. Applications will then be considered in the normal way as if the applicant were present in the room.
17. **Receiving the authorised warrant:** Once considered, the warrant will be electronically signed by the JP where granted. Supporting reasons for grant or refusal will be endorsed on the relevant paperwork and returned to the applicant electronically as a .pdf to prevent any subsequent amendments. Paperwork will only be dispatched to the email address from which the paperwork was received. This email address must match the email address identified in the application supplied. Only one digital copy of the warrant will be returned with occupant / applicant at the top, this can be crossed through as appropriate by the applicant.
18. **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 endorsed with any relevant information relating to its execution to the following secure email address.
- NE-returnedwarrants@justice.gov.uk
19. Please ensure 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. e.g. **MH-161220-1234Smith-1**
20. Returned warrants will be electronically filed with the original application. It is therefore imperative that the subject field contains only the original booking reference.
21. Any hard copy warrants should be stored or destroyed in line with the relevant agency's policies on retention and destruction of confidential documents.
22. **Urgent applications within working hours:** Please follow the normal Team Up booking procedure or contact the emergency administrator number below if there are no available time slots to meet the time requirements of your application. Please note that operational urgency must be explained. If the emergency administrator is unable to accommodate your application you should contact your local court admin centre to arrange a time and location for the hearing.

The emergency administrator number is **01482 861607**. **Please do not call this number other than for operationally urgent applications, and please do not contact the number at all before the scheme goes live on 8 March 2021.**

- 23. Urgency:** Please consider carefully whether the application is truly urgent before contacting the administrator. **Only warrants which will need to be executed before a calendar time slot is available should be considered urgent.** If the court receives too many applications described as urgent it will be unable to accommodate them and applicants will be diverted to court sites, thereby undermining the scheme.
- 24.** It is the duty and responsibility of applicants to ensure that applications are legally valid, made under the correct enactment, and properly evidenced. Applications which are not legally valid cannot be granted and may be returned to the applicant to correct and to be re-booked, which may not be possible the same day. Legal advisers will not have capacity to examine applications before the day of the hearing so applicants should not depend on court staff spotting errors in advance.
- 25. Out of Hours Applications:** If your application is urgent and you need to make your application outside of working hours please use the separate out of hours procedure. Out of hours applications should only be made if there is a danger to life, limb or health of an individual, or an operational need to execute a warrant or other order before the next business day.

Wording for oath or affirmation OATH

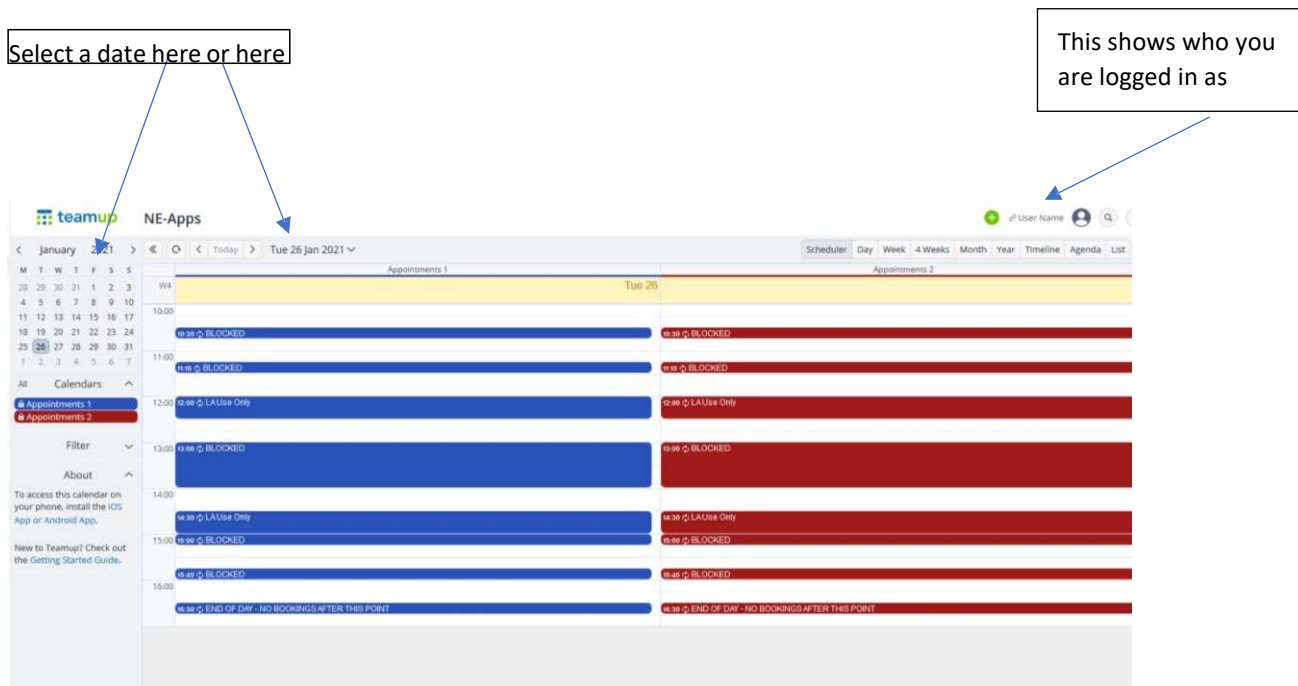
I swear by [Almighty God / Name of God / Name of Holy Book] that the evidence I shall give shall be the truth, the whole truth and nothing but the truth. To the best of my knowledge and belief, this application discloses all the information that is material to what the court must decide, including anything that might reasonably be considered capable of undermining any of the grounds of the application.

AFFIRMATION

I 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.

How to Book a Warrant Slot Using the Team Up Calendar

1. MHPs and HO staff will be provided with a private link to the Team Up website which is hosting the calendar. This link should not be shared other than with other mental health or Home Office colleagues.
2. Each link has permissions which enable the adding of new events to the calendar and modifications to existing events but only if created using the same link.
3. Copy and paste your link into the web browser and the calendar will appear in the below format



4. There are 16 slots in a day, 14 of which are bookable and 2 are reserved for use by the legal adviser. Each slot is set up to be booked for 15 minutes.

The first slot each day is 10.00

The last slot each day is 16.15

There will be no bookings between 13:00 and 14:00

There are a number of blocked slots throughout the day to allow the legal adviser to keep to time.

You may pick a slot in either calendar.

5. To make a booking click on the chosen slot. The following box will appear:

The screenshot shows a booking form with the following elements:

- Event Title:** A text input field with the placeholder "Enter the event title..." and a close button (X).
- From:** A date and time selector showing "26/01/2021" and "10:00".
- To:** A date and time selector showing "26/01/2021" and "10:15".
- Buttons:** A green "Save" button with a checkmark icon.
- Options:** Checkboxes for "All day" and "Repeats", both currently unchecked.
- Reminders:** A bell icon and the text "Reminders Add".
- Calendar:** A "Calendar" section with a dropdown menu showing "Appointments 1".

Two callout boxes provide instructions:

- "Select a 15-minute time block per application" points to the time selection fields.
- "Ensure you have selected the correct date and time" points to the date and time fields.

Booking References

6. You must use a booking reference and under no circumstances put any sensitive information into the calendar as it is not hosted on a secure platform.

Naming Convention for Booking References

The required format of a booking reference is as follows:

<i>For Mental Health Applications</i>
MH – Date – Professional Accreditation Number and Surname – Number of Application that Day
(Professional accreditation number could be Social Work England or AMHP number)
For example, application by mental health professional Smith with accreditation number 123 made on 16 December 2020 would be
MH-161220-123Smith-1 (for first application that day)
The same applicant making a second application the same day would use the reference MH-161220-123Smith-2
...etc
If an applicant does not have any form of professional accreditation number, then just the surname should be used
e.g. MH-161220-Smith-1

For Immigration Applications

HO - Applicant Area Code – Date of Application – Applicant Collar Number and Surname – Number of Application That Day

The Applicant Area Codes are as follows

Cleveland, Durham and Northumbria	HO-NE
Humberside	HO-H
North Yorkshire	HO-NY
South Yorkshire	HO-SY
West Yorkshire	HO-WY

7. An example of a booking reference for an application by Immigration Officer 1234 Smith in the Humberside area for hearing on 16 December 2020 would be

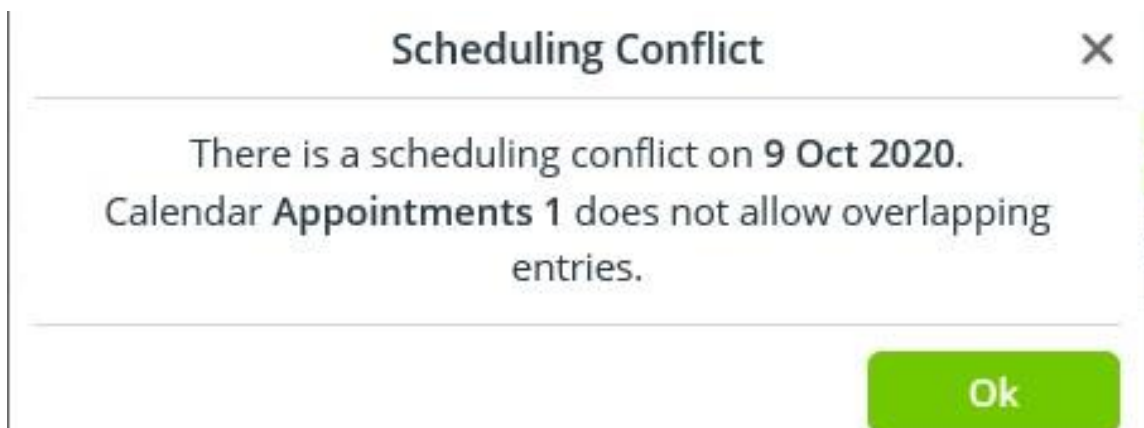
HO-H-161220-1234Smith-1

If the same IO Smith had a second application booked in the same day it would have the reference

HO-H-161220-1234Smith-2

...etc

- This format must be followed consistently with no modifications or additional characters or punctuation. This is intended to create a unique reference that will allow HMCTS to track the application through to archiving.
- The calendar will not allow overlapped bookings. If you try to make an overlapping booking you will see the following message.



- 10. If this happens, click OK and select another slot.
- 11. The calendar will allow for multiple users to be logged in at the same time using the same link, therefore it is possible that 2 applicants may be trying to book the same slot. If this occurs you will receive the same error message as above.
- 12. Each warrant must have a separate booking with a separate reference following the naming convention.
- 13. One booking must be made for each address for which a warrant is sought.
- 14. If more than 6 warrants are being applied for at the same time supported by one application, you should call the administrator number for guidance as this may require a bespoke booking arrangement. The administrator will liaise with the legal advisers as to how the application may be best accommodated.

Amending or Deleting Bookings

- 15. Each applicant body (MHPs or HO) is only able to amend or delete their own bookings. It is not possible to change bookings made by applicants using different links.
- 16. To amend or delete the booking, click on the booking in the calendar to open it and a window like this will open:

The screenshot shows a booking management window. At the top, the booking reference 'HO-SY-080221-123Smith-1' is displayed in a text box. Below this are fields for 'From' (08/02/2021 10:00) and 'To' (08/02/2021 10:15). There are buttons for 'Save', 'Print', 'Share', and 'Delete'. Callout boxes provide instructions: 'Note correct naming convention' points to the reference text box; 'To modify date and time, change them here, but if changing date, also change the booking ref to match new date' points to the 'To' time field; 'To delete booking completely, click here' points to the 'Delete' button.

A copy of the application and the warrant must be emailed to

NE-warrantapplications@justice.gov.uk

at the time of booking, using the same naming convention used when booking the application, for example HO-SY-080221-123Smith-1.

The booking reference must be placed in the subject line of the email – see this example

The screenshot shows an email composition form. The 'To...' field contains 'ne-warrantapplications@justice.gov.uk'. The 'Subject' field contains 'HO-SY-080221-123Smith-1'. There are also fields for 'Cc...' and 'Bcc...' which are currently empty.

17. If you have modified a booking so as to change the date and therefore the reference you must re-send an email with the new booking reference. In the body of the email state the previous booking reference so that the legal adviser can find your documents easily.
18. If you have cancelled a booking completely because you no longer need the warrant you must send an email stating the previous booking reference asking that the documents previously submitted are deleted by the legal adviser.

Format of Application (not applicable to MH applications)

19. For applications made under PACE a screenshot of the first part of the most current version of one of the application forms is below. Please note this is current as of October 2020. Older versions of forms must not be used. The latest version of the application form can be obtained online at <https://www.gov.uk/guidance/criminal-procedure-rules-forms> under ‘investigation warrants’.
20. Please note that the applicant needs to type in the **court application reference** used to make the booking.

October 2020

APPLICATION FOR SEARCH WARRANT

(Criminal Procedure Rules, rr.47.26 & 47.34; sections 15 & 16, Police and Criminal Evidence Act 1984)

Use this form **ONLY** for an application for a search warrant under a power to which sections 15 & 16 of the Police and Criminal Evidence Act 1984 (PACE) apply, other than section 8 of PACE. There is a different form of application for the court to issue a search warrant under section 8. A magistrates’ court cannot authorise a search for excluded or special procedure material. See also the notes for guidance at the end of this form.

Application to a magistrates’ court

This is an application by (name of applicant)
of (name of police force or investigating agency)
 Applicant’s address:¹
 Email address:
 Phone: Mobile:
 Court Application Reference:

I am a constable or

Format of Warrant

Please note that all warrants issued as part of this remote process must show the court contact details as

East Yorkshire Magistrates Court
 Champney Road BEVERLEY
 East Yorkshire
 HU17 9EJ
 Tel – 01482 861607.

This is where the scheme administration is based.

21. Warrants issued under the remote process must now show that they are issued by “Magistrates Courts England and Wales” and show East Yorkshire Magistrates

Court address details – see example below. The court code formerly on these templates should no longer be used.

[[APPLICANT'S] [OCCUPIER'S] COPY]¹

Magistrates' Courts, England and Wales



WARRANT TO ENTER AND SEARCH PREMISES

Court office address: East Yorkshire Magistrates Court, Champney Road, Beverley, East Yorkshire HU17 9EJ

Telephone number: 01482 861607

Any queries regarding this document should be directed to the Admin Support Team at the above address

[This warrant is issued under:²

22. Warrants applied for in person at a physical court location must show the details of that location as has always been the practice.

Checklist for Applicants

Have you paid the fee or prepared an undertaking to pay the fee?

Does your application comply with the correct statutory requirements for the warrant sought? If not it will be returned, as the court cannot consider invalid applications

Has the application been fully completed and signed by the person making the application?

Have you prepared your documents in unprotected word format?

Where applicable, have you obtained either a scanned copy of the senior officer's authorisation or included the chain of emails back to that officer in which authority is given?

Have you booked onto the calendar with the appropriate booking reference?

Have you included the booking reference on the application form?

Have you emailed from a secure email address?

Have you included the booking reference in the file name?

Have you emailed the application, draft warrant and contact number to NE-warrantapplications@justice.gov.uk with the booking reference in the subject line?

Point of Contact for this Guidance:

Mark Daley, Legal Team Manager, HMCTS North East England
Mark.daley@justice.gov.uk

Appendix 2 – The National Emergency Out of Hours Warrant Scheme HMCTS North East Region Scheme Agency Protocol

National Emergency Out of Hours Warrant Scheme HMCTS North East Region

Scheme

November 2017 (updated March 2021)

Agency Protocol

Introduction

The purpose of this protocol is to establish a sustainable agreement between HMCTS and agencies on how and under what circumstances warrant applications will be heard out of hours, with the onus being on agencies to ensure that only urgent applications are made, and always supported by fully completed paperwork.

Applications protocol

Applicants are expected to make every effort to make applications through the 'TeamUp' scheduled booking scheme, or if not a member of that scheme, at local courthouses during normal court working hours. Any out of hours application will be rejected where it is not intended to execute the warrant before a court is open during those normal working hours at which an application may be progressed. Applications will only be entertained if they are urgent. This is defined as:

- there is danger to life, limb or health of an individual,
- an offence will be committed if urgent action is not taken,
- property / evidence will be lost if no action is taken and there is no other authority available.
- There is a need to execute the warrant or other order before the next court business day.

Scheme Contact Details

All applications must be made in the first instance to the appropriate regions 'Warrant Application Out of Hours' telephone number, in especially busy periods you may be directed to ring the other number:

Out of Hours Numbers	Forces
0113 285 5670	Cleveland Police Durham Constabulary Northumbria Police
0113 285 5688	North and West Yorkshire Police
0113 285 5686	Humberside Police South Yorkshire Police

In this context, immediate action means that the warrant must be executed before the court reopens at 10 a.m. on the next working day. In determining whether to allow an emergency application to be made, the Legal Adviser will have regard to how long the information has been in the possession of the applicant

The above numbers will not be staffed but will automatically divert to the legal adviser

on call for the period in question.

Hours of Operation

The Emergency Warrant Application Out of Hours number will be operational from 6 p.m. to 6

a.m. every weekday and all-day Saturday, Sunday and Bank Holiday. The line will be staffed by a Legal Adviser who will undertake to handle each call immediately if possible, or to call back within one hour after having initially taken the caller's details.

The call back period will inevitably be subject to demand on any particular session.

Where no response is received for your force's number a call may be made to the number for other force areas. Under no circumstances should any member of staff initiate contact with other HMCTS personnel or magistrates by any other means when seeking to obtain an out of hours warrant.

HMCTS is not obliged to deliver an out-of-hours service and the Regional Out of Hours Scheme is being offered on the understanding that it will not be misused.

All the HMCTS personnel engaged in the provision of this service are volunteers. Any inappropriate use of this provision may lead to restricted or removed service provision in the future. It is therefore vital for this protocol to be adhered to. HMCTS will provide feedback to the Police on the operation of the scheme.

Applications process

1. There is a presumption that applications for warrants will be dealt with during normal working hours at a courthouse. However, it will be necessary on occasions to make applications for warrants outside working hours.

In the first instance, a Legal Adviser will consider such applications to determine whether the circumstances require immediate action. If the Legal Adviser considers there is no urgency, the applicant will be advised to book a routine appointment. Account will be taken of the time between the applicant having sufficient information to seek a warrant and the actual time of the request, if the applicants have not acted diligently then the on-call legal adviser can refuse to progress the application.

2. Urgent for this purpose is defined as circumstances where, unless immediate action is taken:

- there is danger to life, limb or health of an individual,
- an offence will be committed if urgent action is not taken,
- property / evidence will be lost if no action is taken and there is no other authority available.

3. In this context, immediate action means that the warrant must be expected to be executed before the court reopens for business on the next working day. In determining whether to allow an application to be made the Legal Adviser will have regard to how long the information has been in the possession of the applicant.

4. When a warrant is required outside normal working hours, between the hours of 6 p.m. and 6 a.m., applicants should contact the region's Out of Hours phone line. In the exceptional cases where an application must be heard between 6 a.m. and a local court reopening, or if the helpline fails, applicants should attempt to contact the Senior Legal Managers for the area concerned.

5. Contact should only be made once:

- a. The authorised application form and warrants and required copies

(marked as such) have been completed.

- b. PACE Codes have been complied with, and an inspector or most senior officer at the police station has authorised the completed application.

Once contact with the Out of Hours Warrant Legal Adviser has been established, and the assessment of urgency made, the Legal Adviser will check that the appropriate application form has been completed correctly and the required evidence is included in the application. This step will be completed electronically over secure email and applicants must be prepared to send the necessary documentation to a given HMCTS / Justice email address.

6. The email addresses to send the application to will be specified by the on-call legal adviser but will be a justice.gov.uk address. This is sufficiently secure for 'Official Sensitive' information. If information has a higher security classification you should discuss with the Legal Adviser other additional security requirements such as password protection.
If the Legal Adviser agrees that it is appropriate for the application to be put before a Justice the Legal Adviser will contact a Justice, outline the nature and circumstances of the application, and arrange for a remote hearing to take place.
7. Justices must not be approached directly by the applicant; initial contact must always be through an on-call Legal Adviser to ensure that the Justice of the Peace has received appropriate legal advice before hearing any application.

Internal procedure

Police forces should ensure that that an officer of an appropriate level of seniority authorises warrant applications and ensures that:

1. The application is both legally and factually correct for a magistrate to consider
2. The documentation is fully and correctly completed, with electronic copies available
3. It is appropriate to make an out of hours application as per the definition above.

Monitoring

HMCTS will monitor compliance with the protocol by agencies and will contact agencies if there is either non-compliance with the protocol, or an area is identified for potential improvements.

Any queries in relation to this scheme should be addressed to the scheme co-ordinators:

- Nicholas.lamyman@justice.gov.uk
- Julie.richardson@justice.gov.uk

Appendix 3 – Equality Impact Assessment

For strategies, policies, procedures, processes, guidelines, protocols, tenders, services

1. Document or Process or Service Name: S135 WARRANT TO SEARCH FOR AND REMOVE PATIENTS PROTOCOL Protocol
2. EIA Reviewer (name, job title, base and contact details): Michelle Nolan, Mental Health Act Clinical Manager
3. Is it a Policy, Strategy, Procedure, Process, Tender, Service or Other? Protocol

<p>Main Aims of the Document, Process or Service</p> <p>This Protocol deals with entry to premises under the Mental Health Act 1983 (The Act) and powers to temporarily remove people, who appear to be suffering from a mental disorder to a place of safety or are absent without leave and are subject to be returned to hospital in accordance with Section 18. The aim of this protocol is to provide the necessary guidance and procedures when one has to deal with entry to premises under the Act and temporarily remove people who appear to be suffering from a mental disorder to a place of safety.</p>
<p>Please indicate in the table that follows whether the document or process has the potential to impact adversely, intentionally or unwittingly on the equality target groups contained in the pro forma</p>

<p>Equality Target Group</p> <ol style="list-style-type: none"> 1. Age 2. Disability 3. Sex 4. Marriage/Civil Partnership 5. Pregnancy/Maternity 6. Race 7. Religion/Belief 8. Sexual Orientation 9. Gender re-assignment 	<p>Is the document or process likely to have a potential or actual differential impact with regards to the equality target groups listed?</p> <p>Equality Impact Score Low = Little or No evidence or concern (Green) Medium = some evidence or concern (Amber) High = significant evidence or concern (Red)</p>	<p>How have you arrived at the equality impact score?</p> <ol style="list-style-type: none"> a) who have you consulted with b) what have they said c) what information or data have you used d) where are the gaps in your analysis e) how will your document/process or service promote equality and diversity good practice
--	--	--

Equality Target Group	Definitions	Equality Impact Score	Evidence to support Equality Impact Score
Age	<p>Including specific ages and age groups:</p> <p>Older people Young people Children Early years</p>	Low	This Protocol is consistent in its approach regardless of age.
Disability	<p>Where the impairment has a substantial and long term adverse effect on the ability of the person to carry out their day to day activities:</p> <p>Sensory Physical Learning Mental health</p> <p>(including cancer, HIV, multiple sclerosis)</p>	Low	<p>This Protocol is consistent in its approach regardless of disability.</p> <p>For patients who have a communication need or have English as their second language consideration must be given to providing information in an accessible format.</p>
Sex	<p>Men/Male Women/Female</p>	Low	This Protocol is consistent in its approach regardless of gender.
Marriage/Civil Partnership		Low	The Protocol applies to all irrespective of relationship status.
Pregnancy/ Maternity		Low	This Protocol is consistent in its approach regardless of pregnancy/maternity status however consideration would be given to an appropriate environment in the event of the need to remove to a Place of Safety.
Race	<p>Colour Nationality Ethnic/national origins</p>	Low	The Protocol applies to all irrespective of race. Services must ensure where translator services are provided to ensure 'all practicable steps' are taken to ensure understanding in line with the five key principles of the MCA.

Equality Target Group	Definitions	Equality Impact Score	Evidence to support Equality Impact Score
Religion or Belief	All religions Including lack of religion or belief and where belief includes any religious or philosophical belief	Low	The Protocol applies to all irrespective of religion or believes
Sexual Orientation	Lesbian Gay men Bisexual	Low	The Protocol applies to all irrespective of sexual orientation
Gender Reassignment	Where people are proposing to undergo, or have undergone a process (or part of a process) for the purpose of reassigning the person's sex by changing physiological or other attribute of sex	Low	This Protocol is consistent in its approach regardless of the gender the individual wishes to be identified as. We recognise the gender that people choose to live in hence why the terms gender identity and gender expression ensure we are covering the full spectrum of LGBT+ and not excluding trans, gender fluid or asexual people.

Summary

<p>Please describe the main points/actions arising from your assessment that supports your decision.</p> <p>The Protocol is specifically aimed at the protection of all service users subject to Section 135 under the Mental Health Act. Significant attention has been paid to ensure that no groups are discriminated against either directly or indirectly.</p>
<p>EIA Reviewer: Michelle Nolan</p>
<p>Date completed: 05 July 2024</p>
<p>Signature: M. Nolan</p>