1.0 Summary of Changes

This procedure has been updated on its yearly review as follows:

- Changes the Policing and Crime Act 2017 (PACA) has made to the Mental Health Act 1983 (MHA)
- Change in the process for executing a Section 135 MHA warrant (S135).

2.0 What this Procedure is about

This procedure details the specific responsibilities to be undertaken when assisting with pre planned Mental Health assessments both with and without a S135 warrant.

2.1 Definition of Mental Disorder

Mental disorder is defined under section 1 Mental Health Act as simply as “any disorder or disability of the mind”.

There is also a multi-agency S135 policy with the North Essex Partnership Trust (NEP) and the South Essex Partnership Trust (SEPT). They merged as of the 1st April 2017 and are now the Essex Partnership University Trust (EPUT). It is in the process of being updated and is not presently in-line with the legislative changes.

*Compliance with this procedure and any governing policy is mandatory.*

3.0 Detail the Procedure

<table>
<thead>
<tr>
<th>Abbreviations</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>PACA</td>
<td>Policing and Crime Act 2017</td>
</tr>
<tr>
<td>MHA</td>
<td>Mental Health Act 1983</td>
</tr>
<tr>
<td>S135</td>
<td>Section 135 Mental Health Act Warrant</td>
</tr>
<tr>
<td>AMHP</td>
<td>Approved Mental Health Professional</td>
</tr>
<tr>
<td>MHP</td>
<td>Mental Health Professional</td>
</tr>
<tr>
<td>POS</td>
<td>Place of Safety</td>
</tr>
<tr>
<td>HBPOS</td>
<td>Health Based Place of Safety</td>
</tr>
<tr>
<td>EEAST</td>
<td>East of England Ambulance Service</td>
</tr>
<tr>
<td>ED</td>
<td>Emergency Department (formerly called A&amp;E)</td>
</tr>
</tbody>
</table>
3.1 Mental Health Act Assessments without a Warrant

Police can be asked by Approved Mental Health Professionals (AMHP) to assist when they carry out pre-planned MHA assessments on private premises where no S135 warrant exists. If such a request is made it should be established if there is the potential for risks which are legitimately beyond the ability of AMHP to manage after employing their normal procedures. The mnemonic of RAVE can assist in identifying these risks:

- Resistance;
- Aggression;
- Violence;
- Escape.

Where there are no RAVE risks police attendance is discretionary. Each case needs to be assessed on a case by case basis in conjunction with a THRIVE (Threat, Harm, Risk, Investigation, Vulnerability and Engagement) assessment. The below table highlights the lack of powers Police have where there is no warrant in place.

If RAVE risks are identified, the AMHP should be challenged as to why a warrant has not been obtained. It should then be assessed whether it is safe to delay the MHA assessment for a warrant to be obtained, to give police powers to effectively mitigate the identified risks:
### Identified Risk

<table>
<thead>
<tr>
<th>Identified Risk</th>
<th>Tactical Options available</th>
</tr>
</thead>
<tbody>
<tr>
<td>Starts to move around premises – risks of access to dangerous items, e.g., kitchen objects, windows and balconies</td>
<td>With a warrant: Power to remove immediately to place of safety</td>
</tr>
<tr>
<td>Threatens or uses violence</td>
<td>With a warrant: Power to remove immediately to place of safety</td>
</tr>
<tr>
<td>Starts to engage in self-harm</td>
<td>With a warrant: Power to remove immediately to place of safety</td>
</tr>
<tr>
<td>Attempts to abscond</td>
<td>With a warrant: Power to remove immediately to place of safety</td>
</tr>
<tr>
<td>Requests the assessment team to leave the premises</td>
<td>With a warrant: Power to remove immediately to place of safety</td>
</tr>
</tbody>
</table>

Legal responsibility for the planning and execution of the MHA assessment rests with AMHP to coordinate and manage, until such time as the police can legally intervene, because a crime has been committed, a Breach of the Peace is anticipated or the person has been detained under the MHA.

### 3.2 Mental Health Assessments with a Warrant

#### 3.2.1 Section 135 (1) MHA 1983 Warrant

This can only be applied for by an Approved Mental Health Professional (AMHP) to a Magistrate. In the execution of the warrant the police must be accompanied by an AMHP and registered medical practitioner.
The grounds for S135 (1) is that there is reasonable cause to suspect that a person believed to be suffering from mental disorder; and:

a) Has been, or is being, ill-treated, neglected or kept otherwise than under proper control, in any place within the jurisdiction of the issuing court, or

b) Being unable to care for them self, is living alone in any such place;

The purpose of the warrant is for police to enter, if need be by force, the specified premises in which the person is believed to be, and, if thought fit by the medical practitioner and AMHP remove them to a Place of Safety (POS) with a view of a MHA assessment or other arrangements for their treatment or care.

A warrant granted under Section 135(1) MHA 1983, provides the power to:

- Enter and search the premises for the person;
- Restrict the movement of any persons in the premises;
- Restrain the subject of the warrant for the purpose of removal to a (POS);
- Remove the subject of the warrant person to a POS or hold them at the location they are already at, if that is to be used as the POS. They can be detained for up to for 24 hours to enable an assessment by AMHP and doctors. If further detention under the MHA is required, this can be extended to 36 hours as outlined in section 3.11.

3.2.2 Section 135 (2) MHA Warrant

A warrant under S135 (2) allows police to take someone already detained or liable to be detained under the act, such as absconders or patients absent without leave. It can be obtained by a MHP or police in a case of emergency and the police may be accompanied by MHP but they do not have to be.

S135 (2) gives the police the same powers as under S135 (1) with the purpose of removing the patient so they can be taken to, or returned to, where they ought to be, where:

a) That there is reasonable cause to believe that the patient is to be found on premises within the jurisdiction of the court; and

b) That admission to the premises has been refused or that a refusal of such admission is apprehended, the justice may issue a warrant authorising any constable to enter the premises, if need be by force, and remove the patient.

Police should be asked to assist in returning a patient to hospital only if necessary. If the patient’s location is known, the role of the police should, wherever possible, be only to assist a suitably qualified and experienced MHP (i.e. a nurse from the hospital) in returning the patient to hospital. An AMHP will not be involved in a S135 (2) warrant, unless they were conducting a MHA assessment (with or without the support of Police) and on its completion whilst waiting for transport the patient absconded or asked the AMHP to leave the premises.
3.3 Use of Section 135 or Arrest for a Criminal Offence

There can be situations where the conditions are satisfied where police could arrest a person for committing/on suspicion of committing a criminal offence whilst executing a S135 warrant. PACE allows for someone if necessary to have a MHA assessment while in custody in connection with arrest for a suspected criminal offence. The starting point is generally for police to arrest, so long as the arrest can be justified under Code G of PACE, where there is evidence of a criminal offence having been committed unless:

- The offence is trivial, especially if it is victimless and there is no risk identified to anyone;
- The victim is not seeking a response through the criminal justice system but is seeking help for someone they know to be suffering from mental ill-health;
- Declining to arrest for the criminal offence will not potentially leave the victim, or anyone else at a greater risk/create safeguarding issues which could have been more effectively mitigated by an arrest;
- That in the circumstances, the conduct is more likely than not attributable to mental health problems which should in the circumstances be prioritised.

Professional judgement will have to be applied and present at the execution of a warrant will be an AMHP and Doctor both of whom can provide clinical advice.

If a crime has been committed even if S135 is used the offence must still be recorded on Athena. The use of S135 does not preclude the offence being investigated. In respect of safeguarding the use of S135 will see the person briefly detained but that is only until the result of their MHA assessment which may lead to:

- Detention under Section 2 MHA for up to 28 days to be assessed. As they are being held to be assessed only, this does not mean they did not have capacity to commit the alleged offence;
- Detention under Section 3 MHA for initially up to 3 month (although this can be extended) for treatment. This might suggest they did not have capacity at the relevant time. Even if they are found not to have had capacity, if the offence is sufficiently serious or there are significant risks involved the person can potentially still go through the criminal justice system;
- Informal admittance, if threshold is not met for Section 2 or 3 but they agree to go onto a mental health ward. They can, however, leave at any time;
- Discharge (release), if they are deemed not to have a mental disorder regardless of wider risks they may pose. They may referred for support from community mental health or other services. Their release could be within hours of being detained and must be considered as part of any safeguarding.

If the incident fits the criteria of being a Domestic Abuse incident, regardless of whether the power under S135 has been used it should be recorded as a Domestic Abuse incident and the ATH-Risk forms completed.
3.4 Identification of what Place of Safety (POS) to use

The warrant gives the power to remove the person to a POS to be assessed. The planned nature of a S135 (1) warrant means a POS should normally have been identified by an AMHP prior to executing the warrant. Regarding S135 (2) persons missing from a Mental Health Unit/Hospital should be returned to the hospital they are absent from.

PACA made amendments to the MHA and section 135(6) effectively allows any suitable place to be designated a POS. The person who the Police Officer believes is responsible for managing a place or the occupier if a residential property must agree to its use as a POS. The 4 main places which will be used are:

- HBPOS or ward on a Mental Health Unit;
- Private dwelling;
- Emergency department;
- Police station.

3.4.1 Health Based Place of Safety (HBPOS)

A HBPOS is a secure suite managed by the Mental Health Trust. The expectation is, with very limited exceptions, the needs of anyone detained under S135 (1) will most appropriately be met by taking them to a HBPOS or ward on a Mental Health Unit.

<table>
<thead>
<tr>
<th>HBPOS for Adults</th>
<th>HBPOS for Anyone under 18</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Lakes – Colchester</td>
<td>The St Aubyns Centre has now closed.</td>
</tr>
<tr>
<td>The Linden Centre – Chelmsford</td>
<td>Any HBPOS with capacity can be used.</td>
</tr>
<tr>
<td>Derwent Centre – Harlow</td>
<td></td>
</tr>
<tr>
<td>Rochford (has 2 suites)</td>
<td></td>
</tr>
<tr>
<td>Basildon (has 2 suites)</td>
<td></td>
</tr>
</tbody>
</table>

3.4.2 A Private Dwelling

A private dwelling should only be used where it is considered to be in the best interests of the detainee. If there is any doubt whatsoever on that point, a different POS should always be used. Although the police are responsible for executing a S135 warrant, decisions to keep the person at the premises specified in the warrant should normally be led by the attending AMHP and doctor consulting as necessary with the police officers. The final decision does, however, rest with officers on scene.
Scenarios in which this is likely to be relevant are where the subject is elderly or a child and where removing them from familiar circumstances and family support may cause significant and otherwise avoidable additional distress. Age is not of itself a determining factor though; no general assumptions about the nature of familial relationships or levels of distress should be made. All relevant considerations need to be taken into account in the interests of the person concerned.

As an additional safeguard it is necessary to establish whether the person concerned is content to remain at private premises and assumptions cannot be made on their behalf. In addition, depending on the particular domestic arrangements, the consent of other occupants of a private dwelling may be required as set out in the PACA out under the new Section within the MHA Section 135(7)(a). These are summarised below:

<table>
<thead>
<tr>
<th>Scenario</th>
<th>Consent required</th>
</tr>
</thead>
<tbody>
<tr>
<td>Person believed to be suffering from a mental disorder is the sole occupier of the place.</td>
<td>That person agrees to the use of the place as a place of safety.</td>
</tr>
<tr>
<td>Person believed to be suffering from a mental disorder is an occupier of the place but not the sole occupier.</td>
<td>Both that person and one of the other occupiers agree to the use of the place as a place of safety.</td>
</tr>
<tr>
<td>Person believed to be suffering from a mental disorder is not an occupier of the place.</td>
<td>Both that person and the occupier (or, if more than one, one of the occupiers) agree to.</td>
</tr>
</tbody>
</table>

If consent is sought from the detained person to use a private dwelling as a POS for the purposes of an assessment, and any (other) occupiers of that dwelling, it should be clearly understood by those from whom consent is being sought that there is no obligation upon them to give consent. They should understand that if they do not give consent to that private dwelling to be used as a POS, the person detained will be removed to another POS that will suitably meet their needs. Police and the AMHP may also need to make them aware that their consent is not needed for another POS to be used. The asking and, potentially, giving of any such consents should be properly recorded.

3.4.3 Emergency Department (ED)

ED departments are a POS, although they do not provide a particularly conducive environment for a MHA assessment. Accordingly, ED should normally only be used for the treatment of an emergency medical condition/injury. Once they have been treated the detained person will then be moved to an onwards POS, unless their assessment under the MHA can be promptly completed whilst they are in ED.
## TRIGGERS/RED FLAGS TO TAKE THE DETAINED PERSON TO ED

<table>
<thead>
<tr>
<th>Dangerous Mechanisms:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Blows to the body</td>
</tr>
<tr>
<td>Falls &gt; 4 Feet</td>
</tr>
<tr>
<td>Injury from edged weapon or projectile</td>
</tr>
<tr>
<td>Throttling / strangulation</td>
</tr>
<tr>
<td>Hit by vehicle or occupant of vehicle in a collision</td>
</tr>
<tr>
<td>Ejected from a moving vehicle</td>
</tr>
<tr>
<td>Evidence of drug ingestion or overdose</td>
</tr>
<tr>
<td>Use of Taser</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Serious Physical Injuries:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Noisy Breathing</td>
</tr>
<tr>
<td>Not rousable to verbal command</td>
</tr>
<tr>
<td>Head Injuries:</td>
</tr>
<tr>
<td>• Loss of consciousness at any time</td>
</tr>
<tr>
<td>• Facial swelling</td>
</tr>
<tr>
<td>• Bleeding from nose or ears</td>
</tr>
<tr>
<td>• Deep cuts</td>
</tr>
<tr>
<td>• Suspected broken bones</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Attempting self-harm:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Head banging</td>
</tr>
<tr>
<td>Use of edged weapon (to self-harm)</td>
</tr>
<tr>
<td>Ligatures</td>
</tr>
<tr>
<td>History of overdose or poisoning</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Psychiatric Crisis</th>
</tr>
</thead>
<tbody>
<tr>
<td>Delusions / Hallucinations / Mania</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Possible Acute Behaviour Disorder/Excited Delirium:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Two or more from:</td>
</tr>
<tr>
<td>• Serious physical resistance / abnormal strength</td>
</tr>
<tr>
<td>• High body temperature</td>
</tr>
<tr>
<td>• Removal of clothing</td>
</tr>
<tr>
<td>• Profuse sweating or hot skin</td>
</tr>
<tr>
<td>• Behavioural confusion / coherence</td>
</tr>
<tr>
<td>• Bizarre behaviour</td>
</tr>
</tbody>
</table>

Presenting with any other symptoms which gives cause to suspect they require urgent medical attention.

Consider warning and information markers held on PNC.

### 3.4.4 A Police Station

PACA has amended the MHA and specified strict regulations for when a police station can be used as a POS. To assist officers and staff guidance notes for the use of police custody as a place of safety have been produced.

- It must be noted that the term police station applies not only to a custody suite but any part of a police station;
- **No-one under 18 detained under S135/S136 can be brought into a police station under any circumstances; PACA puts a total ban on this.**
PROCEDURE – Section 135 Mental Health Act 1983

Number: E 0502          Date Published: 10 April 2018

An adult may only be removed to, kept at, or taken to a POS which is police station where an Inspector (or above) is satisfied that:

a) The behaviour of the detained person poses an imminent risk of serious injury or death to anyone;
b) Because of that risk, no other POS in Essex can reasonably be expected to detain them;
c) So far as reasonable practicable, a healthcare professional is present and available to the person throughout the entire period they are detained at the police station; BUT

d) There must be a healthcare professional present in the police station to check on the welfare at least once every 30 minutes of the detained person, and any appropriate action for the treatment and care the detained person.

The decision maker must be satisfied that the person’s behaviour poses an imminent risk of serious injury or death to the person or to others. The decision-maker should consider whether, if no preventative action is taken:

- The person’s behaviour presents a risk of physical injury to the person or to others of a level likely to require urgent medical treatment; AND
- That risk already exists or is likely to exist imminently.

Such judgements will inevitably be partly subjective and based on the available information. For example, a verbal threat to use violence may not of itself meet the threshold. However, if the person has already been violent towards officers the consideration may be different. The likely ability of the person to inflict the degree of serious injury is also a factor (thus for example issues like stature, strength, and co-ordination may be relevant considerations).

Being intoxicated and/or uncooperative may not necessarily, of themselves, meet the threshold. Past behaviour (for example a criminal record for a violent offence) can be relevant, but should not be taken as an indication, in isolation from any demonstrable current behaviour, that the person poses an imminent risk of serious injury or death to themselves or others.

Even where the above regulations are met, there must be consideration for police support to staff at another POS rather than for a person to be held in a police station. Custody should not be used merely to enable officers to be released to other duties.

A healthcare professional would be someone who is classed as one of the following:

- Registered medical practitioner;
- A registered nurse;
- An AMHP;
- A paramedic; or
- An occupational therapist.
The normal process for requesting a healthcare professional will be to request one to be supplied by G4S, following the same process as requesting one to assess a person in custody.

3.4.4.1 Decision making to use a Police Station

If there is consideration for using a police station as a POS, the only part of the police station the person which will be used to hold the person for their own safety and the safety of others is custody. The following process will be applied:

- If the detaining officer believes that the detained person an **imminent risk of serious injury or death to anyone** they will contact the LPT Inspector;
- The LPT Inspector will then liaise with the custody/PACE inspector as to whether a police station will be used or other options considered such as officers to support at another POS (i.e. a HBPOS);
- The custody/PACE inspector will have to confirm the availability of a healthcare professional to attend the police station. If this requirement cannot be met then a police station cannot be used. The actual request for the HCP/confirming the ETA can be made by any member of custody staff;
- From this discussion it may be (as detailed in 3.3) decided that it is more appropriate to arrest the person for a criminal offence. This can be done even if detained under S135/S136 and the requirements inserted by PACA (as detailed in 3.3.4) will then no longer apply. An arrest must never be made simply to get around the PACA regulations. The proportionality of any arrest for someone already detained under S135/S136 must be carefully considered. As they have been detained under S135/136 because it’s believed they may be very unwell and in custody the person will be deprived of the treatment and support they would receive at a HBPOS. As such there would need to be a properly considered and recorded rationale, guidance notes for the use of police custody as a place of safety have been produced;
- If the person is arrested for a criminal offence even though the requirements will no longer apply a healthcare professional should be present in the police station to check on their welfare at least once every 30 minutes. This is not a legislative requirement (as they will no longer apply) but will be done where practicable to attempt to ensure the welfare of the detained person;
- If the person is arrested for a criminal offence, they must have a MHA assessment as they are still detained under the MHA and this can only be discharged by a doctor;
- The final decision maker as to the use of a police station will be the custody/PACE inspector. Any disagreement should be escalated to the Tactical (Silver) Commander to resolve.
3.4.4.2 Review of a Detained Person held in a Police Station

If an adult is detained at a police station the Custody Sergeant must:

a) Ensure that there will be a healthcare professional present in the police station to check on their welfare at least once every 30 minutes, and any appropriate action is taken for the treatment and care the detained person;

b) Ensure so far as reasonable practicable, a healthcare professional is present and available to the person throughout the entire period they are detained at the police station;

c) Review the behaviour of the detained person at least once an hour for the purpose of determining whether the circumstances still exist that:
   i) The behaviour of the detained person poses an imminent risk of serious injury or death to anyone.
   ii) Because of that risk, no other POS in Essex can reasonably be expected to detain the person.

d) When completing the review where reasonably practicable consult the healthcare professional that carried out the most recent check as per a);

e) The frequency of the reviews may be reduced to no less than once every three hours where the detained person is sleeping and the healthcare professional has not identified any risk that would require the person to be woken more frequently.

If when Custody Sergeant completes their review and they determine the circumstances set out in points c) i) and ii) do not still exist they must arrange for the detained person to be taken to another POS other than a police station. This does not apply where:

- Arrangements have been which will enable the MHA assessment to be commenced sooner at the police station than at another POS; AND
- To postpone the assessment would likely cause distress to the detained person.

In addition to the above The custody officer must, in accordance with PACE Code C paragraph 9.5 and the MHA, ensure that appropriate medical attention is given as soon as practicable to any detainee who:

- Appears to be physically ill, injured or need medical attention;
- Appears to be, they suspect, or have been told may be, experiencing mental ill health (or disablement or difficulty that means that the detainee is likely to be vulnerable or require additional support);
- Appears to have a drug or alcohol dependence or withdrawal likely to affect safety;
- Requests a medical examination.
3.4.4.3 Extension of Detention in a Police Station

The period of maximum detention under the MHA has been reduced to 24 hours. Section 3.11 details the circumstances where the period of detention can be increased to 36 hours. If the detained person is in a police station the extension must first be authorised as it would be in any other POS by the responsible medical practitioner who is responsible for completing the MHA assessment. It must the, however, also be approved by a police officer of the rank of Superintendent or higher which would be recorded on the custody record.

3.5 Initial Response to Requests to Action a S135 Warrant

Unless there is an urgent threat to life or limb S135 warrants should be planned and executed by the Operational Support Group (OSG). The links below to the 2 process charts outline the process for both types of S135 warrants. Exceptional circumstances may require deviation from these processes, in the best interest of the subject of the warrant and for the safety of all persons involved.

- Section 135 (1) MHA warrant;
- Section 135 (2) MHA warrant

As part of this process the MHP who is the applicant will complete the A288 form which is sent to the OSG as detailed in the process charts.

3.6 Planning the Execution of the Warrant

A suitable time, date and location will be set for police officers to meet MHP. There will then be a tactical briefing the type of which will be dependent on the circumstances of the warrant. It is important to clarify at this briefing the roles of the all the professionals involved and how they intend to carry them out to mitigate any risks. The police will take the lead and this should result in police officers entering the premises and safely locating and containing the subject. Only after this has been achieved for a S135 (1) warrant should an AMHP begin the assessment.

3.7 Producing the Warrant at the Point of Entry

The following requirements must be satisfied when police execute a S135 warrant:

- If the occupier of the premises is present at the time when the constable seeks to execute the warrant, the constable shall (a) identify himself; (b) produce the warrant to him; and (c) supply him with a copy of it;
- If the occupier of the premises is not present but some other person who appears to the constable to be in charge of the premises is present, the above procedure will be followed in respect of that other person;
- If there is no person present who appears to the constable to be in charge of the premises, a copy of the warrant should be left in a in a prominent place.
In practical terms therefore, police should produce the warrant at the time that entry into the premises is gained. Whilst the Warrant allows a Police Officer to enter the premises by force if necessary, careful thought needs to be given to any means of gaining entry which might avoid the use of force. If force is required, then care should be taken to avoid unnecessary damage to property. The police are the responsible agency for ensuring a property is left secure.

### 3.8 Powers to Search

A new power of search has been inserted into the MHA by the PACA. The new search power is Section 136C which enables a police officer to search a person detained under S135 if the officer has **reasonable grounds to believe** that the person detained may be a danger to themselves or others and is concealing something which could be used to physically injure themselves or others. **The search of a detainee should always be given full consideration given the nature of any detention under S135 and the associated risks.**

The purpose of using these powers is to enable a police officer to take the necessary steps to ensure the safety of the person detained and others. Any use of these powers should support policing and health agencies to effectively provide the care and support required by a detained person. Therefore a search conducted by the officer under the new section 136C is limited to actions reasonably required to discover an item that the officer believes that the person has concealed. The officer may only remove outer clothing and they may search that person’s mouth. The new power does not permit police to conduct an intimate search.

Taking into account other existing powers of search and the new power under section 136C, a person detained under S135 or S136 can be searched at any point during the period they are detained, in any location. The new section 136C powers cover some scenarios not covered by other existing powers, including:

- Where a private home is used as a POS – if the person is kept at that address named on a S135 warrant (by virtue of the new section 135(3));
- At any other POS and no other relevant search powers apply;
- At any point during the removal to a place of safety under S135, for example during transportation.

Section 136C does not alter the applicability of other existing powers, including powers under section 32 or 54 of PACE, and the general powers of health professionals to search patients in hospitals. The applicability of other such powers does not prevent the new search powers from applying.
3.9 Conveyance for Section 135 (1) MHA Warrant

East of England Ambulance Service Trust (EEAST) should be used as the primary source of transport for people detained under S135. **EEAST ambulances cannot be pre-booked.**

3.9.1 How to Request an Ambulance

Once the Doctor has certified the person is fit for transport it will be arranged by calling EEAST on 999. There may be exceptional cases where it is known that the person has serious health conditions or extreme violence or aggression could be anticipated. In such cases if it’s believed urgent medical assistance could be required, EEAST to be requested from the scene before the warrant is executed.

**In all cases an ambulance must be requested** and it must never be assumed one will not be available. The use of ambulance staff is not only important for patient dignity, it is essential for them to assess if medical issues are being masked by apparent mental ill-health, drugs or alcohol and require further medical assessment.

Where it is suspected that any individual detained under this section is suffering from Acute Behavioural Disorder (ABD), this must be treated as a medical emergency and an ambulance called. No-one detained under the MHA who has been medically sedated should be conveyed anywhere without a suitably qualified clinician experienced in caring for such patients.

3.9.2 EEAST response times where the person is to be removed to be assessed

If the person is going to be removed to a POS to be assessed (i.e. a HBPOS) the police officers on scene will make this request. The response times for EEAST have been revised from the National Protocol to be:

- For a standard S135 warrant it will be graded by EEAST as a Category 2 Response and they should respond on average within 18 minutes;
- If restraint is involved or there are any urgent medical issues it will be escalated to a Category 1 Response and they should respond on average within 7 minutes. **If the person is being actively restrained, there are urgent medical issues, or they are demonstrating behaviour suggestive of Acute Behavioural Disorder (ABD) this must be made clear when contacting EEAST.**
3.9.3 EEAST Response Times Where the Person is to be Assessed on the Premises

As detailed in 3.4.2 in rare cases a person may be assessed at a POS (i.e. their home address) detained under the MHA and then require onward conveyance to a HBPOS or Mental Health Unit. For these cases EEAST will respond in-line with their protocol for responding to MHA assessments conducted in the community. EEAST use the following grading’s as set by the AMHP when they make the request for an ambulance:

- Red – Up to 30 minutes where patient is highly agitated, lacks insight and there is a potential risk of violence, self-harm or suicide;
- Amber – Up to 2 hour wait where patient lacks insight and presents with changeability of agitation, anxiety, distress. Patient may also threaten self-harm and potential risk to others identified;
- Green – Up to 4 hour wait where patient is settled in presentation, has good insight into their position of admission and minimal risk identified.

Given the potential for an extended wait of up to 4 hours it will be risk assessed by the officers at the scene whether they can withdraw. If police do withdraw, it may be necessary to return if RAVE risks arise which MHP cannot manage.

3.9.4 Use of Police Vehicles to Convey a Detained Person

In exceptional circumstances the use of a police vehicle might be considered:

a) If the degree of violence being displayed would expose all parties to an excessive level of risk within an ambulance. In such a case it should be considered whether police will ride in the ambulance to assist in the restraint of the person rather than using a police vehicle;

b) When there is an excessive delay in an ambulance attending. What will be deemed to be an excessive wait will be dependent on the circumstances but typically anything over 1 hour. If a police vehicle is used and EEAST are on scene the most senior clinician should travel within the police vehicle with an appropriate level of equipment to deal with any medical emergency that may present. Where possible the EEAST resource should accompany the police vehicle to the POS.

Police will be the decision maker on the form of transport to the POS, informed by the Doctor on scene as required.

If a police vehicle is used and EEAST are on scene the highest qualified member of EEAST should ride in the police vehicle and the ambulance follow directly behind.

If officers at the scene are considering the use of a police vehicle Oscar 1 must be contacted for authorisation. Prior to Oscar 1 being contacted unless exceptional circumstances apply, officers at the scene should have requested an ambulance.
Guidance notes to assist the decision making of Oscar 1 have been produced. The factors to be considered by Oscar 1 are:

- The ETA of the ambulance which has been provided by EEAST;
- Whether there are any concerns for the person’s physical health and if it’s anticipated these could be aggravated by any restraint of the person;
- Does the person appear to be intoxicated or suffering from the effects of any drugs/substances which may place them at higher of physical health issues;
- Would the delay in waiting for an ambulance likely to result in prolonged restraint having to be applied which could put the person at increased risk;
- Is the patient showing signs of further mental state distress/deterioration due to the delays in conveyance;
- The number of officers in attendance to manage any risks;
- The length of the journey, the type of police vehicle to be used and how it is proposed to monitor a persons’ physical health whilst being conveyed;
- Any risks which might be present at the scene i.e. other persons;
- Is the person in public view such that their dignity is being compromised by the delay in conveyance.

The above list is not exhaustive and other factors may need to be considered depending on the individual circumstances of the incident.

If authority is given Oscar 1 should then consider given the circumstances, including the level of restraint which has/is being used, if known any existing health concerns and how the person is presenting whether they should be conveyed straight to ED. There they can be medically assessed, treated (if needed) and cleared prior to being taken onwards to a HBPOS.

Oscar 1 can delegate this decision to an LPT Inspector but only if the LPT Inspector is at the scene. It is not intended by this that LPT Inspector travels to the scene but can authorise the use of a police car where they already at the scene and actively managing the incident.

The decision made and supporting rationale, including requests to EEAST and the arrival time of an ambulance on scene should all be recorded on STORM and the A287 form.

### 3.9.5 Conveyance for Section 135 (2) MHA Warrant

If the person has absconded or is absent without leave from a hospital the manager of that establishment is responsible for ensuring that necessary transport arrangements are put in place for the patients return. Once the patient is detained it will be dynamically risk assessed whether continued involvement by the police is required.

If the circumstances requiring a S135 (2) warrant do not relate to a person being absent without leave from a hospital their conveyance and EEAST response times is as per 3.9.2.
3.10 Handover of the Detained Person at a POS

Whatever POS is used Police Officers cannot legally leave the detainee without risking a subsequent verdict of negligence, unless the following duty of care has been compiled with:

1) Take reasonable steps to ensure that the detainee does not come to physical harm whilst in the care, custody or control of police;
2) To provide relevant information to those into whose care the detainee is going to be transferred;
3) Then take reasonable care only to release the detainee into a safe environment to an appropriate person who is willing to accept the detainee.

If an EEAST resource attends conveys the detained person, the EEAST clinician will give the medical handover to the Health Trust staff or custody sergeant of the results of their assessment. If not assessed by a member of EEAST staff it is the responsibility of the accepting place of safety to consider if they need further medical treatment or assessment.

3.10.1 Handover at a HBPOS or Mental Health Unit

For a S135 (1) warrant once the person has been detained it will be the responsibility of the AMHP to inform the HBPOS/Mental Health Unit the detained person is on route. For a S135 (2) warrant it will be the responsibility of the accompanying MHP to inform the relevant establishment they are on-route, if there is no MHP present the police will inform that establishment.

On arrival at the receiving HBPOS/Mental Health Unit a joint risk assessment and handover process should commence. This is so that unless there is a continued need for police support, officers can withdraw and responsibility for the care of the person is passed to appropriate health professionals. The handover to staff will be done jointly by the Police, AMHP (if they were the applicant of the warrant) with support from any other involved health professionals as required i.e. Doctor or Paramedic.

The A287 form is the basis of the joint handover. It should be used in conjunction with a body worn video recording (if available) and once completed it will outline:

- The reason and justification for the person’s detention;
- Any violence or aggression which the person has displayed;
- If the persons is suspected to be under the influence of drugs or alcohol;
- Means of conveyance, which will highlight if a physical health assessment has been completed by ambulance staff;
- Items seized when the person was searched;
- Risk factors identified by police and health professionals, including information held on police/health systems relevant to the assessment of risk;
- The final risk assessment and whether continued police support is required.
In accordance with guidance from the Royal College of Physiatrists, in most cases the police should be free to leave within 30 minutes, once the staff are satisfied they can safely manage the person.

The handover by police must include any known risks. The staff must then agree to take responsibility for the person in full knowledge of any relevant risks that need to be managed. The detainee should be informed that the police and NHS have a duty to share information with each other to ensure their safety. Officers must ensure checks have been completed and relevant information shared, to include:

- Relevant convictions on PNC which would indicate the detainee presents a risk to persons or property;
- Any information relating to being an absconder or an escaper;
- Relevant warning markers on PNC or Athena;
- Relevant intelligence held on Athena with a handling code which allows it to be disseminated to partner’s i.e. a PIR that the person secretes razor blades;
- Any safeguarding concerns which are relevant to the safety of the detainee at the POS i.e. victim of Domestic Abuse.
Below is the matrix for assessing the need for continued police support.

<table>
<thead>
<tr>
<th>POLICE SUPPORT AT A PLACE OF SAFETY</th>
<th>LOW RISK</th>
<th>MEDIUM RISK</th>
<th>HIGH RISK</th>
</tr>
</thead>
<tbody>
<tr>
<td>Current/recent risk indicators</td>
<td>Current/recent risk indicators</td>
<td>Current/recent risk indicators</td>
<td></td>
</tr>
<tr>
<td>No currently present behavioural indicators (other than very mild substance use) AND no recent criminal / medical indicators that the individual is violent OR poses and escape risk OR is a threat to their own or anyone else's safety OR</td>
<td>Some currently presented behavioural indicators (including substance use) AND / OR some recent criminal / medical indicators that the individual may be violent OR poses an escape risk OR is a threat to their own or anyone else's safety BUT</td>
<td>Currently presented behavioural indicators (including significant substance intoxication) OR significant recent criminal or medical indicators that an individual is violent AND poses an escape risk OR is an imminent threat to their own or anyone else's safety OR</td>
<td></td>
</tr>
<tr>
<td>Previous indicators</td>
<td>Previous indicators</td>
<td>Previous indicators</td>
<td></td>
</tr>
<tr>
<td>Which are few in number AND historic OR irrelevant; BUT Excluding violence graver than ABH and not involving weapons, sexual violence or violence towards NHS staff or vulnerable people</td>
<td>Limited in number OR historic OR irrelevant; including violence graver than ABH or involving weapons, sexual violence, violence towards NHS staff or vulnerable people OR LOW RISK patients who have disengaged from treatment and where there are MEDIUM RISKS threats when disengaged.</td>
<td>Neither limited NOR historic NOR irrelevant; including violence graver than ABH or involving weapons, sexual violence, violence towards NHS staff or vulnerable people OR LOW or MEDIUM RISK patients who have disengaged from treatment and where there are HIGH RISKS threats when disengaged.</td>
<td></td>
</tr>
<tr>
<td>Police support is NOT required</td>
<td>Police support MAY be required If police support is required decision to be reviewed every 30 minutes</td>
<td>Police support is VITAL If police support is required decision to be reviewed every 30 minutes</td>
<td></td>
</tr>
</tbody>
</table>
Any dispute in relation to the perceived risks or period the police are being required to remain will be resolved through the below escalation process. **Police cannot leave until the receiving POS has formally taken over responsibility and released them.**

<table>
<thead>
<tr>
<th>Daytime hours between 09:00 – 17:00</th>
</tr>
</thead>
<tbody>
<tr>
<td>Duty Sergeant</td>
</tr>
<tr>
<td>Duty Inspector</td>
</tr>
<tr>
<td>Tactical (Silver) Commander</td>
</tr>
<tr>
<td>To liaise with counterpart</td>
</tr>
<tr>
<td>Clinical Manager/ Matron</td>
</tr>
<tr>
<td>Service Manager</td>
</tr>
<tr>
<td>Inpatient Director</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Weekends &amp; out of hours between 17:00 – 09:00</th>
</tr>
</thead>
<tbody>
<tr>
<td>Duty Sergeant</td>
</tr>
<tr>
<td>Duty Inspector</td>
</tr>
<tr>
<td>Tactical (Silver) Commander</td>
</tr>
<tr>
<td>To liaise with counterpart</td>
</tr>
<tr>
<td>1st on call Manager</td>
</tr>
<tr>
<td>Senior on call Manager</td>
</tr>
<tr>
<td>Executive Director on call</td>
</tr>
</tbody>
</table>

Post incident where the police feel that the NHS has insisted upon support inappropriately the police SPOC should be contacted to liaise with their counterpart. A list of police SPOCs for Essex HBPOS are on the Connexions S135 mental health page.

**3.10.2 Handover of the Detained Person at ED**

A detainee should normally only have been taken to ED as a POS for medical treatment. The handover of a detained person to staff at ED is more complicated that at a HBPOS/Mental Health Unit due to:

- ED is not a secure environment, especially when the detainee is in an open area or a curtained off cubical receiving medical treatment;
- The busy nature of ED and the volume of people in it;
- The general nursing staff are not trained in restraint.

If police believe, however, the risk could be managed by ED staff the handover process as outlined in 3.10.1 should be attempted. Where there is any disagreement as with 3.10.1 there is an equivalent escalation process for ED detailed below. **Police cannot leave until the receiving POS has formally taken over responsibility and released them.**
As with 3.8.1 if issues at ED are encountered post incident to be raised with the police SPOC for that ED department. A list of SPOCs can be found on the Connexions S135 mental health page.

3.10.3 Handover of the Detained Person at a Police Station

A police station can only be used as a POS in accordance with the regulations as outlined in 3.4.4. The detained person will be booked into custody as per the normal custody process. The A287 form should still be completed up to the section where it’s highlighted not to proceed any further when custody is the POS.

A person at a police station who is detained under Section 135 MHA will be treated in accordance with the provisions of the Police and Criminal Evidence Act 1984 (PACE). In particular, under s 58 PACE they are entitled to legal advice and under s 56 to have a person notified of their whereabouts.

3.10.4 Transferring the Detained Person between Places of Safety

The transfer of a detained person legally requires authorisation by an AMHP or a Police Officer. Coordinating the conveyance of individuals between Health Based Places of Safety and ED departments and vice versa should be undertaken by the Mental Health Trusts and Acute Trusts respectively. Coordinating and arranging transport is not the police’s role unless there is mutual agreement between parties that it is in the best interest of the individual and there is resource to provide support.

3.11 Section 135 Mental Health Act clock and the maximum detention period

The MHA as amended by the PACA sets a maximum time someone can be detained of 24 hours. This period begins:

- For people being removed to a POS at the point when the person physically enters a POS. Time spent travelling to a POS or spent outside awaiting opening of the facility does not count;
- For people where it is determined to keep the person at the address specified in the warrant, the time when the officer first entered the premises in execution of the warrant.
PROCEDURE – Section 135 Mental Health Act 1983

Number: E 0502 Date Published: 10 April 2018

In most situations the calculation of the 24 hour period should be clear cut. When a person detained under S135 is removed to a POS for purposes other than an assessment of their mental health, point 1 above still applies. For example, if a person has been taken to ED for physical treatment – and they are subsequently taken to another POS for the purposes of a MHA assessment – the detention period should begin to be counted at the point when the person arrived at ED.

3.11.1 Extending the Maximum Detention Period

There is provision for the new maximum period of detention of 24 hours to be extended by up to a further 12 hours – to a maximum of 36 hours – but only in very specific and limited circumstances. These are that, for medical reasons alone, it is not practicable to conduct (or complete) a meaningful mental health assessment within the 24 hour period. Such circumstances might arise, for example, if the person is too mentally distressed or is particularly intoxicated with alcohol or drugs.

Such decisions may only be taken by a responsible medical practitioner who is responsible for completing the MHA assessment, and must be based solely on the medical condition of the person concerned. A delay in a MHA being commenced is not a valid reason for extending a detention. Section 3.4.4.3 details the process for an extension where the person is detained in a police station.

3.12 Use of Body Worn Video

Body Worn Video (BWV) must be used during the execution of a Section 135 warrant, where BWV is available. The recording should be made from the arrival of officers on scene and include the briefing with the MHPs prior to the execution of the warrant, where BWV is available. The incident will be recorded through to:

- The conclusion of the warrant if the person is not detained under S135;
- If they are detained under Section 135 until officers leave the person at the receiving POS. This includes the conveyance of the person and the handover to staff at the receiving POS.

It is recognised that a Section 135 warrant can be a prolonged incident and there is a limit on how much footage each device can record. Accepting there can always be unexpected developments in any incident, if it thought the incident may become prolonged, if possible, officers will alternate between the use of their BVW devices to increase the period which can be recorded.

3.13 Administration and Athena Process

A non-crime incident to be created on Athena for the classification for Mental Health Investigation – Detention under S135 Mental Health Act 1983.
The completed A287 and A288 should be scanned and:

- Uploaded to the Athena record;
- Create a general task on Athena and send it to PNC Bureau and ask them to record the S135 detention on PNC. The PNC Bureau will use the data from the A287 form uploaded to Athena to create the record on PNC;
- The A287 form will be reviewed by the detaining officers Sergeant. Although it will not be possible for a supervisor to be present at the point a detainee is handed over at a place of safety, however its completion must be reviewed and any feedback identified;
- Once the uploading officer has checked the A287 and A288 forms have been successfully uploaded to Athena the hardcopies will be disposed of, they will not be stored or retained.

Responsibility for completing the A287 and ensuring a copy is uploaded to Athena rests with the principal attending officer. Should the length of time police support is required at the POS require the officer to handover the detained person to other officers:

- They will complete the A287 as far as possible and give it to the officers taking over from them as part of the handover;
- The will create the Athena record and upload the A288 form;
- The final leaving officers leaving the detained person at the POS must ensure they leave with a copy of the completed A287 form and upload it to the created Athena record. Should they not leave with a copy of the form it will be the responsibility of the final officers at the POS to get a copy of the A287 form from the POS that received the person and upload it to Athena.

### 3.14 Staff Welfare

The distressing nature of some mental health incidents could potentially give rise to issues of staff welfare. The publication, engagement and use of staff welfare services are encouraged. Within Essex Police this means services provided by Occupational Health. Managers and supervisors should familiarise themselves with C 0201 Protocol - Trauma Risk Management (TRiM).

Further guidance around staff welfare and health is available from the TRiM webpage and Health Services webpages. There is also helpful advice contained on the Blue Light Programme – support for emergency services.

### 4.0 Equality Impact Assessment

An Equality Impact Assessment has been carried out and shows the proposals in this procedure would have no potential or actual differential impact on grounds of age, sex, disability, race, religion or belief, marriage and civil partnership, sexual orientation, gender reassignment and pregnancy and maternity.
5.0 Risk Assessment

Police officers and police staff will consider real time risks in a dynamic manner in accordance with their individual roles, and take all reasonable steps to reduce these as far as possible.

6.0 Consultation

The below departments/roles were included in the consultation for this procedure:

- Unison
- Federation
- Equality and Diversity Co-ordinator
- Evolve
- Health & Safety
- FCR Chief Inspector
- Custody Chief Inspector
- Operational Support Group
- Personal Safety Team Leader
- Policy author of the Body Worn Video Procedure
- Equality of Services Manager
- Support Networks
  - MESA
  - Disability Network
  - Women’s Leadership Development Forum
  - Work Life Balance
  - NEXUS – Acting Chair
  - Christian Police Association
- Equality of Services Manager
- Force Solicitor
- British Transport Police
- Section 135 and 136 System Preparedness Plan leads
- Essex Partnership University Trust (EPUT)
- East England Ambulance Service Trust (EEAST)
- Local Authority Leads:
  - North AMHP Lead
  - South AMHP Lead
  - Thurrock AMHP Lead
  - EDS AMHP Lead
- Emergency Department Leads:
  - Colchester Hospital University Foundation Trust
  - Broomfield Hospital
  - Princess Alexandra Hospital
  - Southend University Foundation Trust Hospital
  - Basildon and Thurrock University Hospital
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7.0 Monitoring and Review

This procedure will be reviewed by, on or behalf of, the Head of Crime and Public Protection in consultation every 12 months.

8.0 Governing Force policy.
Related Force policies or related procedures

- E 0500 Policy – Mental Ill Health
- E 0501 Procedure - Section 136 Mental Health Act 1983
- E 0503 Procedure - Mental Capacity Act
- E 0505 Procedure – Acute Behavioural Disorder (ABD) and Excited Delirium (ED)
- B 1400 Policy - Protecting Vulnerable People
- B 1407 Procedure - Safeguarding Vulnerable Adults
- E 0100 Policy - Custody
- E 0104 Procedure – Post Reception Detainee Care
- B 1600 Policy – Missing Persons
- B 1601 Procedure – Missing Persons
- B 1602 Procedure – Found Persons
- A 0901 Procedure – Body Worn Video

9.0 Other source documents, e.g. legislation, Authorised Professional Practice (APP), Force forms, partnership agreements (if applicable)

- College of Policing mental health Authorised Professional Practice (APP).
- Department of Health and Home Office guidance for the implementation of changes to police powers and places of safety provision in the Mental Health Act 1983.
- College of Policing briefing document, Mental Health Act Amendments 2017.
- National Ambulance protocol for the conveyance of persons detained under Section 136. As detailed in 3.9.2 it also applies to persons detained under S135 who are removed to a POS for assessment but the response times have been revised.
- East of England Ambulance Service Trust protocol for the conveyance of persons detained under the Mental Health Act. As detailed in 3.9.3 it applies where the subject of the S135 warrant is assessed in their home address and then requires conveyance to a POS.