Assessment of Persons under Sections 135 and 136 of the Mental Health Act 1983
(replaces policy no. 128 & 181/ Clinical)

<table>
<thead>
<tr>
<th>POLICY NUMBER</th>
<th>TPMHA&amp;MCA/101 /Clinical</th>
</tr>
</thead>
<tbody>
<tr>
<td>POLICY VERSION</td>
<td>v5</td>
</tr>
<tr>
<td>RATIFYING COMMITTEE</td>
<td>Pan Sussex MHA Monitoring Group</td>
</tr>
<tr>
<td></td>
<td>Professional Practice Forum</td>
</tr>
<tr>
<td>DATE RATIFIED</td>
<td>1 October 2015*</td>
</tr>
<tr>
<td>NEXT REVIEW DATE</td>
<td>1 October 2018</td>
</tr>
<tr>
<td>EXECUTIVE SPONSOR</td>
<td>Chief Nurse</td>
</tr>
<tr>
<td>POLICY AUTHORS</td>
<td>Deputy Director – Principal Social Worker</td>
</tr>
<tr>
<td></td>
<td>MH Liaison Officer, Sussex Police</td>
</tr>
</tbody>
</table>

*December 2017 Interim Position Statement to reflect changes from Policing and Crime Act 2017 and will be subject to further amendment.

If you require this document in another format such as large print, audio or other community language please contact the Governance Support Team on 01903 845735 or email HSCG@sussexpartnership.nhs.uk

Did you print this document yourself?
Please be advised that the Trust discourages the printing and retention of hard copies of policies and can guarantee that the policy on the Trust website is the most up-to-date version.

As a contingency a full set of up-to-date Trust policies are held by the Governance Support Team based at Trust HQ, Swandean
Assessment of Persons under Sections 135 and 136 of the Mental Health Act 1983 (MHA)

KEY POLICY POINTS FOLLOWING AMENDMENTS TO s135 AND s136 MHA FROM POLICING AND CRIME ACT 2017 IMPLEMENTED ON 11TH DECEMBER 2017

- Maximum period of detention under s136 is 24 hours with the possibility of a 12 hour extension, authorised by a Responsible Medical Practitioner (Doctor) on clinical grounds only
- If the person needs to be taken to A&E for physical needs the 24 hour clock will start when received at A&E
- There can be no use of police stations or custody as Places of Safety for young people aged 17 and under who are detained under s135 or s136
- Police stations can only be used as a Place of Safety for adults in genuinely exceptional circumstances, where the person detained on s136 is at risk of serious injury or death to themselves or another
- If an adult is held in police custody there must be a health professional available to monitor every 30 minutes
- A person can be detained on s136 anywhere except a private home; this could include Acute Hospitals and police stations
- A police officer, where practicable, will consult a health care professional prior to detaining a person under s136 - (Providing neither the person nor police officer is put at risk by waiting for a clinical opinion)
- There is a protective search power for officers to search the person detained on s136
- MHA assessment under s135 can take place in the person’s home
**Foreword**

In accordance with section 118 of the Mental Health Act 1983 (referred to subsequently as the MHA), the Department of Health issued a Code of Practice (2008 revised in 2015) to provide guidance for managers and staff of Health and Social Care Services in undertaking duties under the MHA.

The Code requires statutory agencies to draw up a policy for the implementation of these sections, understand their powers and purpose and the rights of the individuals concerned.

This policy meets the requirements of the Code of Practice and represents good practice in inter-agency co-operation. This new version of the policy has been negotiated across Sussex between East and West Sussex Social Services, Brighton & Hove Social Services, Sussex Police, Sussex Partnership NHS Foundation Trust and South East Coast Ambulance Services NHS Foundation Trust.

This policy is a clear statement of the commitment of all agencies to work effectively together to ensure s135 and s136 MHA are executed according to high professional standards, respecting individual dignity in accordance with the European Convention of Human Rights.

The implementation of this policy will be monitored by a standing multi-agency group.

---

**Daren Mochrie**  
Chief Executive  
South East Coast Ambulance Services NHS Foundation Trust

**Sam Allen**  
Chief Executive  
Sussex Partnership NHS Foundation Trust

**Giles York**  
Chief Constable  
Sussex Police

**Keith Hinkley**  
Director  
Adult Social Care  
East Sussex County Council

**Rob Persey**  
Director  
Adult Social Care & Health  
Brighton & Hove City Council

**Avril Wilson**  
Director  
Social Care  
West Sussex County Council
## Contents

1. s136 MHA – Introduction and Background .......................................................... 6
2. Purpose of the Policy ......................................................................................... 6
3. Commitment of signatory bodies .................................................................... 7
4. The Law: Section 136 Mental Health Act 1983 (MHA) .................................. 8
5. Standards for Practice ..................................................................................... 11
6. Operational Procedures - before apply S136 powers .................................... 13
7. Operational Procedures – Attendance at Emergency Departments (A&E) .... 13
8. Operational Procedures – Assessments at Hospital Places of Safety .......... 14
9. Operational Procedures – Where the Place of Safety is Police Custody ....... 18
10. Operational Procedures - where there is no available Place of Safety ........ 21
11. Use of MHA following an arrest for a criminal offence ............................ 21
12. Procedures for managing medication in a section 136 Suite ....................... 22
13. Providing medication to people detained in Police Custody ....................... 25
14. Completion of documentation – POLICE CUSTODY .................................. 26
15. Transport/Conveyance to hospital ................................................................. 26
16. Pre-release Risk Assessments ...................................................................... 26
17. Out of office hours arrangements (AMHPs) .................................................. 27
18. Child and adolescent mental health services (CAMHs) ............................... 28
19. Monitoring of detentions under s136 MHA .................................................. 28
    Definitions used in this document and explanatory notes ......................... 30
    Case Law ......................................................................................................... 32

Appendix 1: Protocol for Responding to a Police Officer prior to Detention of a person under section 136 ........................................................................... 33
Appendix 2: (Form) s136/135 Arrival at an Emergency Department ................ 35
Appendix 3: Flow chart for s136 pathway in Hospital Place of Safety 36
Appendix 4: (Form) s136/135 extension of time period (up to 12 hours) 37
Appendix 5: Guidance for Medication Use in instances of Section 136 39
Appendix 6: (Rights leaflet) Your Rights under Mental Health Act 1983, Section 135/136 41
Appendix 7: Escalation Flowchart for Places of Safety 43

1. s135 MHA – Introduction and background 44
2. Purpose of the Policy 45
3. Commitment of signatory bodies 45
4. The Law: Section 135 Mental Health Act 1983 MHA) 46
5. Applying for a s135 (1) MHA warrant 47
6. Applying for a s135 (2) MHA warrant 48
7. Standards for Practice 49
8. Operational Procedures during working hours 50
9. Arrangements when executing a warrant under s135 (2) MHA 55
10. Operational Procedures outside working hours 55
11. Protection of property 56
12. Evaluation and monitoring of actions under s135 MHA 57

Definitions used in this document 58

Appendix 1: Use of s135 (1) or s135 (2) – flowchart 59
S136 MENTAL HEALTH ACT 1983 (MHA)

1. INTRODUCTION AND BACKGROUND

1.1 The MHA Code of Practice (2015) requires local social services authorities (defined in s145(1) of the MHA), the NHS and the local Police Service to establish a clear policy for the use of the power to remove a person to a Place of Safety under s136 MHA.

1.2 This policy and procedures outline the role and responsibilities of each of the organisations that are the signatory bodies. This policy and procedures therefore provide guidance for police officers and related civilian personnel, medical and/or other healthcare practitioners, and Approved Mental Health Professionals (AMHP) (as defined in s114 MHA).

1.3 To ensure that persons detained under s136 MHA receive a competent and effective assessment of their mental health needs by a doctor and an AMHP.

1.4 This document has been prepared by the pan-Sussex Mental Health Act Monitoring Group. All signatory bodies associated with this policy and procedures are members of this Group. This document replaces the previous policy and procedures agreed originally in 2006, reviewed in October 2011 and recent review in March 2015 in preparation for the amended Code of Practice from 1st April 2015, and reflects the Policing & Crime Act 2017 and applies to both Hospital and Police Custody Places of Safety. It is acknowledged that the use of Police Custody in relation to s136 MHA would only be in exceptional circumstances for working age people and a never event for children and young people as per the Policing & Crime Act and amendments (2017).

2. PURPOSE OF THE POLICY

- To fulfil the requirement of s136 MHA, the Human Rights Act 1998 and Police and Criminal Evidence Act 1984, in respect of medical and mental health professional assessment of people brought by the police to a ‘Place of Safety’. (Amended in December 2017 to ensure compliance with Policing & Crime Act 2017).

- To ensure high quality timely assessments of people removed or detained under s136 MHA, and to provide a rapid and flexible service.

- To ensure assessments under s136 MHA commence with speed to meet the requirements of the MHA Code of Practice (2015).

- To maintain good standards of practice in relationships between Sussex Police, Sussex Partnership NHS Foundation Trust, local Social
Services authorities, South East Coast Ambulance NHS Foundation Trust, and any provider of an Alternative Place of Safety

➢ To maintain the professional expertise of police officers, AMHPs, medical practitioners and nurses in ensuring the proper assessment of people detained under s136 MHA.

➢ To obtain and monitor information on reasons for people being removed and detained under s136 MHA to improve service delivery.

3. COMMITMENT OF SIGNATORY BODIES

3.1 Sussex Police
Sussex Police will exercise its authority to remove and/or detain under s136 MHA. People who are so detained will be taken to a locally agreed Hospital Place of Safety.

3.2 The Signatory NHS Trust
Sussex Partnership NHS Foundation Trust will also ensure that mental health staff have appropriate training to support actions that may be required, such as bed management, in the execution of this policy and procedures.

3.3 SECAmb will respond within the agreed Ambulance Response Programme Category 2, which is a mean response time of 18 minutes and 90% within 40 minutes, following the request by Sussex Police to attend, undertake a physical health care check and convey. When required SECAmb will convey between A&E departments and Mental Health Hospital Places of Safety at the request of a healthcare professional.

3.4 THREE LOCAL AUTHORITIES

Brighton & Hove City Council, East Sussex County Council and West Sussex County Council
Brighton & Hove City Council, East Sussex County Council and West Sussex County Council will make available Approved Mental Health Professionals (AMHPs) under s114 MHA for the purposes of assessment as appropriate. Brighton & Hove City Council, East Sussex County Council and West Sussex County Council commit themselves to providing an efficient and effective 24 hour response to requests for assessment. During working hours an AMHP will be provided by the local AMHP service and by the relevant local out of hours service at all other times.
4. **THE LAW : Section 136 Mental Health Act 1983 (MHA)**

4.1 (1) If a person appears to a constable to be suffering from mental disorder and to be in immediate need of care or control, the constable may, if he thinks it necessary to do so in the interests of that person or for the protection of other persons:

(a) Remove the person to a Place of Safety within the meaning of s135, or
(b) If the person is already at a Place of Safety within the meaning of that section, keep the person at that place or remove the person to another Place of Safety.

(1A) The power of a constable under subsection (1) may be exercised where the mentally disordered person is at any place, other than:

(a) Any house, flat or room where that person, or any other person, is living, or
(b) Any yard, garden, garage or outhouse that is used in connection with the house, flat or room, other than one that is also used in connection with one or more other houses, flats or rooms.

(1B) For the purpose of exercising the power under subsection (1), a constable may enter any place where the power may be exercised, if need be by force."

4.2 A person removed to a Place of Safety under this section may be detained for a period not exceeding 24 hours for the purpose of enabling him/her to be examined by a Registered Medical Practitioner and to be interviewed by an AMHP and of making any necessary arrangements for his/her treatment or care.

The period of 24 hours begins with:

(i) in a case where the person is removed to a Place of Safety, the time when the person arrives at that place;
(ii) in a case where the person is kept at a Place of Safety, the time when the constable decides to keep the person at that place;
(iii) If the person needs treatment for physical needs the 24 hours will start when the person arrives at A&E.

The Registered Medical Practitioner who is responsible for the examination of a person detained under section 135 or 136 may, at any time before the expiry of the period of 24 hours, authorise the detention of the person for a further period not exceeding 12 hours (beginning immediately at the end of the period of 24 hours).

An authorisation may be given only if the Registered Medical Practitioner considers that the extension is necessary because the condition of the person detained is such that it would not be practicable for the assessment of the person for the purpose of section 135 or section 136 to be carried
out before the end of the period of 24 hours (or, if the assessment began within that period, for it to be completed before the end).

Once the necessary arrangements have been made and implemented for the detained person’s care and/or treatment, detention under s136 MHA ceases to have effect.

4.3 The Place of Safety is defined in s135 (6) MHA as:
- A hospital (as defined by the MHA)
- An independent hospital or care home for mentally disordered persons
- A police station (but see 4.5 below)
- Residential accommodations provided by a local authority under the Care Act
- Any other suitable place (subject to the restrictions set out below)

Restrictions on places that may be used as Places of Safety
(a) a house, flat or room where a person is living may not be regarded as a suitable place unless:
   (i) 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;
   (ii) 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;
   (iii) 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;
(b) a place other than one mentioned in paragraph (a) may not be regarded as a suitable place unless a person who appears to the constable exercising powers under this section to be responsible for the management of the place agrees to its use as a Place of Safety."

(1) A child may not, in the exercise of a power to which this section applies, be removed to, kept at or taken to, a Place of Safety that is a police station.

(2) The Secretary of State may by regulations:
(a) provide that an adult may be removed to, kept at or taken to a Place of Safety that is a police station, in the exercise of a power to which this section applies, only in circumstances specified in the regulations;
(b) make provision about how adults removed to, kept at or taken to a police station, in the exercise of a power to which this section applies, are
to be treated while at the police station, including provision for review of their detention.

4.4 Note: It may be entirely appropriate to remove the person to the address of a friend or relative who is prepared to look after him/her. This could then become the Place of Safety. However, in relation to this specific policy and procedures, it is understood by all the signatory organisations that the Place of Safety should be Sussex Partnership NHS Foundation Trust Hospital Place of Safety, or agreed alternative Place of Safety, or A&E, in exceptional circumstances Police Custody if criteria are met.

4.5 The circumstances in which a police station (or custody) can be used are now set out in the Mental Health Act 1983 (Places of Safety) regulations 2017 and are very limited. The person must be aged 18 years or over and the following three conditions satisfied;

(1) the behaviour of the person poses an imminent risk of serious injury or death to that person or others (regulation 2(1)(a)(i))
(2) because of the risk posed, no place of safety other than a police station in the relevant police area can reasonably be expected to detain the person (regulation 2(1)(a)(ii))
(3) so far as is reasonably practicable, a healthcare professional is present and available to the detainee throughout the period in which he or she is detained at the police station (regulation 2(1)(a)(iii))

The ‘relevant police area’ is the police force area in which the detained person was situated when section 135 or s136 powers were initially exercised.

Sussex police will always require a health care professional to be on site, to carry out 30 minutes checks on the person (minimum) and the police will not be responsible for arranging or providing this healthcare professional. If a healthcare professional is not available the person cannot be detained in Custody. The short term solution for when a health professional is not available is as follows: the person will be taken to Langley Green Hospital or Mill View Hospital place of safety suite, where the police officers will stay whilst the individual is assessed by a health care professional. This arrangement must be coordinated by the S136 coordinator at Mill View Hospital.

The decision to use a police station as a place of safety requires the authorisation of a police officer of the rank of at least Inspector (regulation 2(1) (b)).

4.6 The person may be moved to one or more Places of Safety during the 24 hour period, (and the 12 hour extension period where applicable), in accordance with s136 (3) MHA.

4.7 A person may be transferred before an assessment has begun, while it is in progress or after it is completed and while they are waiting for any necessary arrangements for their care and treatment to be put in place.
4.8 If unavoidable and in the person’s best interest an assessment begun by one AMHP or doctor may be taken over by and completed by another either in the same location or another Place of Safety to which the person has been taken.

4.9 The person may be taken to the second or subsequent Places of Safety by a police officer, an AMHP or a person authorised by either a police officer or an AHMP.

4.10 Unless it is an emergency a patient should not be transferred without the agreement of an AMHP, a doctor or other healthcare professional competent to assess whether the transfer would put the patient’s health or safety, or that of other people at risk. It is for those professionals to decide whether they first need to see the patient personally.

4.11 Any transfer should be to benefit the person and/or protect the public.

4.12 Detained persons should never be moved from one Place of Safety to another unless it has been confirmed by the unit coordinator that the new Place of Safety is willing and able to accept them.

5. STANDARDS OF PRACTICE

5.1 Once it has been determined that the person is fit for assessment best practice is that all MHA assessments will commence within three hours (C of P 16.47), and should be completed within six hours whether in Hospital or Police Custody Suite.

5.2 Best practice states MHA assessments should be undertaken jointly by an AMHP and a Registered Medical Practitioner. However, see paragraph 8.25 and 9.8, if no mental disorder is present.

5.3 Where it appears that the detained person has learning disability it is desirable for either a consultant psychiatrist in learning disability or an AMHP with knowledge and experience of working with people with learning disability to be available to make the assessment. If it is not possible the reasons for this will be recorded.

5.4 Similarly where the person detained is under the age of 18, or is known to have recently moved to adult mental health services, where possible either a Consultant Child and Adolescent Psychiatrist or an AMHP with knowledge and experience of caring for this age group should undertake the assessment. AMHPs in particular need to be mindful of the requirements of the MHA Code of Practice (2015) in relation to the attendance of other adults including a parent, guardian or Appropriate Adult.

5.5 A child under the age of 18 years WILL NEVER, be removed to, kept at, or taken to, a Place of Safety that is a police station - even if the
child is extremely violent or all hospital Places of Safety are full. In the first instance all children will be accepted into one of the five hospital Places of Safety and when all five are full the child will be taken to CAMHS, Chalkhill Hospital, and Haywards Heath where they will be accommodated. In the event that this is not possible, priority will be given to the child aged 17 or under, even if it means moving an adult.

5.6 The out of hours CAMHS Consultant Psychiatrist on call should be contacted for a clinical discussion (telephone advice only) via Amberstone switchboard (01323 440022) if it has not been possible to secure the attendance of a Consultant Child & Adolescent Psychiatrist.

5.7 The Urgent Help Service is also available via a duty mobile number: 07788 564997; they are available until 8.00 pm weekdays and 10.00 am - 6.00 pm Saturdays and Sundays. Admissions to Chalkhill outside of these hours are negotiated via the on-call CAMHS Consultant who will liaise with the ward.

5.8 In hours the CAMHS team local to the Place of Safety can be contacted by telephone.

5.9 Where a person is being assessed by a doctor other than his or her general practitioner, that doctor should, where possible, be approved under s12 (2) MHA.

5.10 Effective communication is essential in accurate assessment, and where English is not the person’s first language and they may have difficulty in understanding or communicating, an interpreter should be used. If the person being assessed has a sensory impairment people with special expertise should be used, which meets their communication needs, e.g., Makaton or a signer.

5.11 All detentions under s136 MHA are recorded on appropriate records held by each professional involved in the assessment.

All people detained under s136 MHA will be given an information leaflet on s136 MHA in addition to any information they may be given under the Police and Criminal Evidence Act 1984, when detained in a Police station.

5.12 The application of this policy will be monitored by the signatory organisations on a bi-annual basis. This monitoring will be formally recorded in the minutes of the Mental Health Act Monitoring Group, convened and chaired by Sussex Partnership NHS Foundation Trust.
6. **OPERATIONAL PROCEDURES – Before exercising s136 powers**

6.1 Before deciding to detain and remove a person under s136 the Sussex Police officer must, if it is practicable to do so, consult with:

a) A Registered Medical Practitioner,

b) A registered nurse,

c) An approved mental health professional, or

d) An Occupational Therapist.

e) A Paramedic

This is a requirement of s136 (1C) of the Mental Health Act 1983, an amendment made by the Police & Crime Act 2017 under s80.

6.2 In Sussex local arrangements will be in place covering different areas of the county, providing Sussex Police officers with contact details for the relevant practitioners in their area. (see Appendix 1 for Protocol for Responding to a Police Officer prior to detention of a person on section 136).

6.3 Unless regulations require otherwise, the expectation of this consultation will be for the officer to be provided with any information specific to the individual concerned, to help the officer to decide if there is an alternative to s136 appropriate for the individual at that time in their current circumstances. For example, there may be a crisis plan or advance directive that will help the police to decide whether to use their powers under s136. Ultimately whatever information is provided by the practitioner, it will remain with the police officer to decide whether to use the s136 power.

6.4 The police officer will need to decide in the specific circumstances how long they can wait or consult before exercising the power of s136.

7. **OPERATIONAL PROCEDURES - Attendance at Emergency Departments (A&E)**

7.1 First arrival at an Emergency Department. For a person attending Emergency Departments in the company of police officers immediately after being detained on s136 their ‘24 hour clock’ will commence at the moment they arrive at the Emergency Department. It is therefore vitally important that all parties involved record the time of arrival on the Form “s136/135 Arrival at an Emergency Department” (Appendix 2). Copies of the form will be held by the Mental Health Liaison Team (MHLT) based at the site, but this team are not responsible for the person’s care or containment. This will be so even where the Emergency Department does not accept responsibility for the person on s136; it is the time the person arrives at a first ‘Place of Safety’ within the meaning of the MHA that is now deemed to trigger the clock. Where there are clinical needs, a 12 hour extension can be authorised by the Registered Medical Practitioner at A&E (see 8.17 to 8.19).
7.2 The police officers will either stay with the individual or will leave while treatment is provided in the Emergency Department. The decision for officers to leave is one that must be made in consultation with the Emergency Department, based on the person’s presentation, any identified risks and the context of the setting at that time. Police officers will return on request, if the person’s presentation changes so that they can no longer be managed within the department with the Emergency Department’s own resources.

7.3 Moving on to another Hospital Place of Safety should be considered with transport provided by SECamb at the request of a healthcare professional. if the police are no longer present they would not necessarily need to return to affect the transfer.

8. OPERATIONAL PROCEDURES – Assessments at Hospital Places of Safety

8.1 Hospital Places of Safety will accept everyone; except those who go to Police Custody in the exceptional circumstance described in 4.5. See Appendix 3 Flow chart for s136 pathway in Hospital Place of Safety

In the event of all Hospital Places of Safety within the area of this policy being full to capacity, see flowchart appendix 7.

8.2 Sussex Police will contact the unit coordinator at Mill View Hospital via Pager 07623 975101 to establish the nearest available Place of Safety.

8.3 In the event that the nearest Place of Safety is not available the police officer will look for an alternative suite in conjunction with the Place of Safety unit coordinator at Mill View Hospital.

8.4 Sussex Police will contact SECamb to convey the detained person to the Place of Safety, within the ARP Category 2 response time of 18 to 40 minutes, with a police officer travelling to the Place of Safety either in the ambulance or in their own vehicle, whichever is most appropriate, unless there is extreme violence where police may need to convey.

Those persons conveyed by SECamb to a Hospital Place of Safety will have an assessment of any symptoms which may suggest a medical condition which may require them to be assessed in A&E.

8.5 Protective Searches: A person detained under s136 may be searched (MHA s136C) by a police officer at any time, once detained, if the officer has reasonable grounds to believe the person may be a danger to themselves or to others and is concealing something that could be used to cause injury to themselves or others. The search must only be carried out to the extent that is reasonable to find and remove the item that is believed to be concealed. The officer can require that the person removes a jacket
or coat and gloves, but no other clothing. It permits the officer to search in the person’s mouth. If an item is found it may be removed by the officer (s136C).

Ideally, if the officers are of a different gender to the person being searched, a nurse of the same gender as the person should be present if the search takes place at the Hospital Place of Safety.

The nurse responsible for the person should document the search and record any item removed by the police in Carenotes. In line with Trust policy items are left with the individual at Place of Safety staff discretion after risk assessing. Items that are removed are to be stored securely. Record the removal of items on the Care Notes page Section 136 removal of potential ligatures

8.6 Breathalyzers will not be used to determine acceptance. Breathalyzers may be used after acceptance as clinically indicated both to determine fitness to assess under the MHA and to inform staff if the disturbed mental state might relate to the effects of alcohol or other causes.

8.7 It may be necessary for the police to remain at the Place of Safety to ensure the safety of the individual or staff. This will be discussed with the s136 Nurse during an appropriate handover. It is anticipated that officers will leave once the handover is complete following discussion between nurse and police officers.

8.8 The police can be recalled by telephoning 999 if the detained person poses an unmanageably high risk to other patients, staff or users of a healthcare setting, and a PMVA team has tried but is unable to safely restrain them, or where an offence may have occurred. Nursing staff must stay and support police in regaining control of the patient. Once control has been regained the patient will remain at the Place of Safety unless there are exceptional circumstances when consideration will be given to removing the patient to custody.

8.9 Where an officer has detained a person under s136 MHA the officer will complete the Police Handover form electronically on their mobile data device, giving details of the person detained and the circumstances of that detention. This will be e-mailed to the Nurse-in-Charge of the unit. When an alternative Place of Safety is used it will be the person in charge who accepts the handover.

8.10 In the Hospital Place of Safety a Doctor or nurse will assess for any underlying medical conditions that require the patient to be moved to an Emergency Department. In West Sussex this is an SHO and in East Sussex and Brighton & Hove a qualified nurse.

8.11 If prior to or on arrival at Hospital Place of Safety the patient requires urgent medical assessment or intervention they should be taken to an Emergency Department (A&E) by the police or SECAmb.
8.12 If at any time during the period of detention the patient has a medical emergency the ambulance service should be contacted on 999.

8.13 A health care worker will accompany to the Emergency Department if the person goes from Hospital Place of Safety and wait until the person is fit to return to Hospital Place of Safety.

8.14 If the person is taken to first to the Emergency Department (A&E) the 24 hour detention on s136 commences at the time they arrive at the hospital building (see section 7 above) and a 12 hour extension may be authorised by the Registered Medical Practitioner.

8.15 **Timescales:** The power to detain a person on s136, for the purpose of an assessment and of making the necessary arrangements for their treatment and care, is for a ‘permitted period of detention’. This period was reduced by the Policing & Crime Act 2017 s82 from 72 hours to 24 hours. The period of 24 hours begins to run from the arrival at the first Place of Safety even if the person does not stay at this place.

8.16 If the person is being kept at a Place of Safety (as opposed to being removed to it), where they were already at that place, the time would commence at the time the police officer decided to keep the person at that place. This might be applied in a situation where a person was detained at an Emergency Department (A&E) and then remained at that department for ongoing medical treatment while on the s136.

8.17 **Time Extensions:** There is provision for the Registered Medical Practitioner, responsible for the examination of the person detained under s136 to authorise a further period of detention, to commence at the end of the 24 hours, not exceeding a further 12 hours (s136B). The grounds are that “the condition of the detained person is such that it would not be practicable for the assessment of the person….to be carried out before the end of the period of 24 hours” or if it were to commence for it to be completed. It is expected to relate to individuals whose assessment is delayed due to their presentation (such as intoxication) or their need for medical treatment (such as for an overdose). Staff shortages, delays in attending, or the lack of other resources, such as hospital beds, are not considered to be aspects relating to 'the condition of the detained person' and therefore would not be grounds that would justify an extension.

8.18 The authorisation of an extension should be authorised by the Registered Medical Practitioner. This is most likely to be one of the doctors involved in the assessment under the MHA, who, around or at the time of the assessment, decides the criteria are met to authorise an extension of up to 12 hours. The extension must be authorised within the initial permitted period of detention (i.e. the first 24 hour period). The decision should be recorded on Care Notes and the form “s136/135 extension of time period (up to 12 hours)” (Appendix 4). This form should be kept with the detained person’s paper work and uploaded onto Care Notes.
8.19 If an extension is needed to be granted before the MHA assessment has been set up, the RMP will be the consultant (or deputy) of the patient’s care team or, if unknown, CRHTT consultant (or deputy), or, out of hours the on call consultant psychiatrist, or the A&E Consultant or Deputy. It may be possible for the authorisation to be granted following a telephone consultation with the nurse responsible for the detained person’s care, without a face to face examination. The nurse (or doctor if present) should record the decision having been made on Care Notes and the form “s136/135 extension of time period (up to 12 hours)” (Appendix 5). This form should be kept with the detained person’s paper work and uploaded onto Carenotes.

8.20 The authorisation should state:
- the time the authorisation is granted,
- the reason for the authorisation,
- the new end time for the s136,
- The doctor’s name and status.

8.21 The s136 Nurse will ask the detained person if they would like to have someone of their choice informed of their whereabouts and at the discretion of the nurse may be supported to have telephone contact.

8.22 Visitors to the Place of Safety will be at the discretion of the Nurse in Charge of the s136 suite and according to the need of the detained person, e.g. a child may benefit from a parent, an older person with dementia from a relative being with them. At all times the safety of the person, staff and visitors must be considered.

At the time of assessment this will be in consultation with the Doctor and AMHP to decide if visitor may be present at assessment.

8.23 A copy of the MHA rights leaflet will be given to the detained person (Appendix 5) in addition to a verbal explanation of their rights. If the detained person appears to be incapable of understanding what is said to them then the above information need not be given at that time but should be supplied later and as soon as is practicable; where required an interpreter or signer will be used. The Monitoring Form (see local protocol) should include details of when the detained person was given their rights.

8.24 The s136 Nurse will contact the AMHP service to advise of the detention and will arrange for the fitness to detain assessment to take place and will record the time of referral. The AMHP service should be asked to provide an estimated time by which the assessment should be expected to take place.

8.25 It is best practice for the detained person to be seen by both the Registered Medical Practitioner (RMP) and the AMHP. However if the RMP sees the person first and concludes that he or she is not mentally
disordered then a telephone conversation can be held with the AMHP. The individual can then no longer be detained under the Section and should be immediately discharged from detention.

8.26 If it appears that the detained person has a learning disability, then Sussex Partnership NHS Foundation Trust and the relevant local Social Services authority will, where possible, ensure that a psychiatrist or an AMHP, with experience of working within that Care Group, are made available to undertake the assessment. It will be the responsibility of the AMHP to arrange their attendance. This should not cause an unnecessary delay to the MHA assessment.

8.27 If the RMP feels that an inpatient episode is deemed unnecessary but the detained person has a mental disorder they must be seen by an AMHP.

8.28 If the person requires admission and agrees to voluntary/informal admission an AMHP must be involved. If the person declines admission a second s12 approved Doctor will be contacted by the AMHP to undertake a full MHA assessment, unless they had already been party to the assessment with the first doctor.

9. OPERATIONAL PROCEDURES - Where the Place of Safety is Police Custody

9.1 The circumstances in which a police station (or custody) can be used are now set out in the Mental Health Act 1983 (Places of Safety) regulations 2017 and are very limited. The person must be aged 18 years or over and the following three conditions satisfied;

(1) The behaviour of the person poses an imminent risk of serious injury or death to that person or others (regulation 2(1) (a) (i))
(2) Because of the risk posed, no place of safety other than a police station in the relevant police area can reasonably be expected to detain the person (regulation 2(1) (a) (ii))
(3) so far as is reasonably practicable, a healthcare professional is present and available to the detainee throughout the period in which he or she is detained at the police station (regulation 2(1)(a)(iii))

The ‘relevant police area’ is the police force area in which the detained person was situated when section 135 or s136 powers were initially exercised.

Sussex police will always require a health care professional to be on site, to carry out 30 minutes checks on the person and the police will not be responsible for arranging, or providing, this healthcare professional. If a healthcare professional is not available the person cannot be detained in Custody. The short term solution for when a health professional is not available is as follows: the person will be taken to Langley Green Hospital or Mill View Hospital place of safety suite, where the police officers will
stay whilst the individual is assessed by a health care professional. This arrangement must be coordinated by the S136 coordinator at Mill View Hospital.

The decision to use a police station as a place of safety requires the authorisation of a police officer of the rank of at least Inspector. (Regulation 2(1) (b))

9.2 The Custody Officer will immediately contact the relevant local Social Services authority (Brighton & Hove City Council or East Sussex County Council or West Sussex County Council) to request the attendance of a duty AMHP. This contact information will be recorded on the Custody record. The relevant local Social Services authority will in turn inform its duty AMHP of this request for a MHA assessment. If the detainee has been assessed by a FNP or FME the AMHP should contact them to confirm the available information. The AMHP will also gather other background information relevant to the MHA assessment.

9.3 The Custody Officer will inform the detained person in writing, with any necessary explanations, of their rights to have someone informed of their detention, to consult a solicitor without charge, and to consult a copy of the Codes of Practice (Police and Criminal Evidence Act 1984 s60 (1) (a) and s66).

9.4 In addition to a verbal explanation the Custody Officer will also supply a detailed information leaflet, produced by Sussex Police, explaining the purpose of s136 MHA and the detained person’s rights whilst in custody centre and subject to the MHA.

9.5 If the detained person appears to be incapable of understanding what is said to him/her, either through their mental disorder, English not being their first language or a disability affecting sight or hearing, then the above information need not be given at that time. However, it should be supplied later and as soon as practicable. A record that the detained person has been informed of the reason for his/her detention and of his/her rights must be made on the Custody record.

9.6 The Custody Officer will ensure that a copy of the Department of Health MHA 1983: Code of Practice (2015) is available.

9.7 Whilst at Custody, should the person need assessment or treatment at an Emergency Department they will be escorted there by police officers. Transport should be by ambulance. Police Officers will remain with the person. The s136 ‘clock’ continues during the time at the Emergency Department.

9.8 It is best practice for the detained person to be seen by both the Registered Medical Practitioner (RMP), (ideally s12 approved) and the AMHP as a joint assessment. However if the RMP sees the person first and concludes that he or she is not mentally disordered then a telephone
conversation can be held with the AMHP. The individual can then no longer be detained under the Section and should be immediately discharged from the s136. AMHPs, where they are employed by the local authority, should consider their general responsibilities to the patient under the Care Act 2014.

9.9 If it appears that the detained person has a learning disability, then Sussex Partnership NHS Foundation Trust and the relevant local Social Services authority will, where possible, ensure that a psychiatrist or an AMHP, with experience of working within that Care Group, are made available to undertake the assessment. It will be the responsibility of the AMHP to arrange their attendance. This should not cause an unnecessary delay to the MHA assessment.

9.10 It is expected that conveyance to hospital from Custody to a hospital Place of Safety or for an admission will be by ambulance.

9.11 If the detained person is mentally disordered but admission to hospital is not necessary, the doctor and the AMHP will make any appropriate after care arrangements for the care and support of the person that are required. They will inform the Custody Officer when those arrangements have been made and/or implemented.

9.12 If admission to hospital is required, it is the responsibility of the Sussex Partnership NHS Foundation Trust (bed manager/unit coordinator) to identify a suitable bed for a detained person with the minimum of delay. A health care professional must continue to remain at Custody.

9.13 If a bed is not immediately available, the Trust has delegated responsibility to find a bed to the Trust’s bed manager/unit co-ordinator who agrees a timescale with the Custody Officer as to the frequency of updates on the position with the bed search. The custody officer will ensure that the bed manager/unit co-ordinator’s contact details are recorded on the Custody record. The bed manager/unit co-ordinator should update the custody officer and AMHP when a bed has been identified.

9.14 The AMHP, or AMHP service, will maintain regular contact with the Custody Officer in order to be able to arrange the conveyance of the detained person to hospital as and when necessary.

9.15 **Time Extensions:** In the exceptional circumstances of the person being held in Custody under s136 the power to detain a person last for 24 hours. The period of 24 hours begins to run from the arrival at the first Place of Safety even if the person does not stay at that place. There is provision for a further period of detention, to commence at the end of the 24 hours, not exceeding a further 12 hours (s136B). The grounds are that “the condition of the detained person is such that it would not be practicable for the assessment of the person….to be carried out before the end of the period of 24 hours” or if it were to commence for it to be completed. (See section 8.17 for more explanation).
9.16 A decision to extend the period of detention for a person detain in a police station (or Custody) can only be taken by the Registered Medical Practitioner if the decision is approved by a police Superintendent or higher rank (s136B(3)).

9.17 The RMP will be identified in the manner set out in 8.18 and they should discuss their view with the police Superintendent or higher rank. The healthcare professional should consult with the RMP and record the decision having been made, on Care Notes and the form “s136/135 extension of time period (up to 12 hours)” Appendix 4. This form should be kept with the detained person’s paper work and uploaded onto Care Notes.

9.18 The authorisation of an extension should be documented by the Custody Sargent on the Custody record.

10. OPERATIONAL PROCEDURES – where there is no available Place of Safety

10.1 In the event of all of the hospital Places of Safety being occupied a person detained on s136 will be taken to A&E and held by the Police until SPFT can make arrangements for them to be received at one of the hospital Places of Safety. See flowchart appendix 7.

10.2 If the person is under 18 years they will be taken to the Place of Safety at Chalkhill; they must never be taken to a police station (Custody). In the event that this is not possible, priority will be given to the child, even if this means moving an adult from the hospital Place of Safety to another Place of Safety.

10.3 The Trust has developed an escalation policy in conjunction with Sussex Police where there is no available hospital Place of Safety. In the absence of any alternatives being offered, Sussex Police will instruct its officers to take a detainee to the Emergency Department to await a place of safety becoming available or the assessment taking place, whichever happens first. (See Escalation flowchart appendix 7) The officers will not wait in vehicles with detainees. The time of arrival and reason must be recorded on the Form “s136/135 Arrival at a hospital Emergency Department” (Appendix 2). Copies will be held by the MHLT, but this team are not responsible for the person’s care or containment.

11. USE OF MHA FOLLOWING AN ARREST FOR A CRIMINAL OFFENCE

If a person is arrested for a criminal offence and is in Custody they may on occasions be offered an assessment of their mental health by a PCLDS. For those individuals who subsequently need an assessment under the MHA they may either
a) Remain arrested, in which case their PACE clock will continue to run and they will need to be assessed in Police Custody, or,
b) Be released from Custody when the criminal process has reached a conclusion and the person can be subsequently detained under s136 within the centre and transferred under s136 to a hospital Place of Safety for an assessment under the MHA in the normal manner.
c) Be released from Custody but detained under s136 within the centre and, due to ‘exceptional circumstances’ remain in Custody but now on the s136, in which case the 24 hour clock form s136 will commence at the time the officer decided to detain them on s136.

Police Custody, by virtue of not being a ‘house, flat or room’ in which the person lives, or garden associated with their dwelling, is not excluded as a place in which the powers of s136 can be used.

12. PROCEDURE FOR MANAGING MEDICINES IN A S136 SUITE

12.1 The management of medicines must conform to the Trust’s Medicine’s Code. Unless specific, approved medication storage is provided within the s136 suite, there must be a designated adjacent ward where any medication brought in by the person can be safely stored. (See Appendix 6: Guidance for Medication Use in instances of Section 136)

12.2 Persons detained under s136 cannot be forced to take medication if they wish to refuse and are able to give informed consent. If they are assessed as lacking capacity, a ‘Best Interest’ decision may need to be made, in accordance with the Mental Capacity Act 2005 (MCA 205) by either a doctor or senior nurse.

12.3 Persons admitted to an s136 suite may require medication in two circumstances:

a) Routine prescribed medications (including prescribed regularly used ‘as required’ medication)
b) Information on the person’s need for routine medication may not always be available. In all circumstances the person’s medication should be confirmed as soon as practical with their GP (if they have one and is known). If the local resources are available the summary care record for the detained person should be accessed to identify the medical history and current treatment. This will apply even when the person or their carer provides information or brings in labelled medication, as the information provided may be inaccurate or out of date.

12.4 If the person needs to take routine medication the following process should be followed:

12.4.1 If the person’s prescribed medication has been brought in with them and an authorised prescriber is available, the following should occur:
a) The authorised prescriber should write the prescribed medication on a Trust Drug Prescription and Administration Chart. Stock drugs held in the s136 suite or from an adjacent ward, an individually dispensed medication from pharmacy or medication from an emergency cupboard should be used in preference to the person’s own medication unless this can checked and confirmed as suitable for use, by a member of the pharmacy team.

b) If the medication is not available as a stock drug, or because the pharmacy is closed, then the person’s own medication can be used provided it has been checked against the unit’s ‘patient’s own medication checking procedure’.

c) If the person’s own medication is found to be unsuitable, and the pharmacy is closed, advice should be obtained from the authorised prescriber on whether the medication is essential (or not) and whether doses can safely be missed. If it is considered essential that the medicine is administered, advice should be obtained from the on-call pharmacist on how the medicine might still be obtained.

12.4.2 If the person’s own prescribed medication has been brought in with them but no authorised prescriber is available, the following should occur:

a) The person’s own prescribed medication must be checked against the units ‘patient’s own medication checking procedure’ for suitability for use. Any medication considered suitable for use can be administered by a qualified nurse against the authority provided by the label on the medicine and they must record the dose in the ‘once only section’ of a Drug Prescription and Administration Chart with the words ‘Patient’s own medication label’ written clearly in the space set aside for the prescriber’s signature. The administration of these medicines must be recorded on the chart in the normal manner and, in addition, a written record must be made confirming the procedure used for assessing the person’s medication as suitable for use.

b) At the earliest convenient opportunity the medication should be fully prescribed on the Drug Prescription and Administration Chart by an authorized prescriber.

12.4.3 If having checked the person’s own medication it is found to be unsuitable for use, advice must be obtained from a doctor on whether the medication is essential (or not) and whether doses can safely be missed. If it is considered essential that a dose is administered then a doctor will need to attend the suite to prescribe the medication on a Drug Prescription and Administration Chart and the medication will be supplied from suite or ward stock, individually dispensed from pharmacy or obtained from emergency cupboard stocks.

If the medication is unavailable, advice should be obtained from the on-call pharmacist with regard to how it might still be obtained.
12.4.4 If no prescribed medication is brought in with the person but information on their routine medication is available, (e.g. from their GP, summary care record or from a prescription repeat slip), then:

a) If an authorised prescriber is available, the medication should be prescribed on a Drug Prescription and Administration Chart and suite or ward stocks, individually dispensed stocks from pharmacy or emergency cupboard stock drugs used. If the medication is not available then the doctor must assess whether it is essential (or not) and whether doses can safely be missed. If it is considered essential that the medicine is administered, advice should be obtained from the on-call pharmacist on how the medicine might still be obtained.

b) If an authorised prescriber is not available, the duty doctor should be contacted to advise on whether any of the prescribed medication is essential (or not) and whether doses can safely be missed. If any of it is considered essential then the duty doctor will need to attend the suite to prescribe the medication on a Drug Prescription and Administration Chart and the medication will be supplied from suite or ward stock, individually dispensed from pharmacy or obtained from emergency cupboard stocks. If the medication is unavailable, advice should be obtained from the on-call pharmacist with regard to how it might still be obtained.

12.5 If the person needs ‘as required’ medication for immediate symptom control and appropriate medication is not already prescribed for them or information on their routine prescribed medication is not available, then the following two options are available:

a) A limited number of ‘as required’ medicines can be administered under MAUP’s (Medicines Administered under Protocol) or PGD (Patient Group Directions) at the discretion of suitably authorised nurses. As long as the qualified nurse has had the appropriate training on MAUP’s and PGD they should be able to administer.

b) The MAUPs cover ‘homely remedies’ including mild analgesics and antacids and all qualified nurses working within inpatient units can be authorised to use them by their ward manager, in line with specific criteria as described in the protocol.

12.6 PGDs covering the administration of lorazepam, olanzapine or zolpidem in inpatient settings (including s136 suites), are available for the treatment of both working age adults and older people.

12.7 Their use is limited to authorised practitioners, qualified nurse who have completed the appropriate training and have been assessed and authorised as competent.

12.8 Repeat doses can be administered under MAUPs and PGDs but it is good practice to get the ‘as required’ medication needs of the person reviewed as soon as convenient and, if appropriate, prescribed on the Drug Prescription and Administration Chart by an authorised prescriber.
12.9 Any medicine administered under a MAUP or PGD must be recorded in the MAUP and PGD section of the Drug Prescription and Administration Chart.

12.10 If the symptoms cannot be treated using MAUPs or PGDs then an authorised prescriber will need to review the person. Any medication prescribed should be written up on the Drug Prescription and Administration Chart, and suite or ward stocks, individually dispensed stocks from pharmacy, or emergency cupboard stock drugs used. If the newly prescribed medication is unavailable, advice should be obtained from the on-call pharmacist with regard to how it might still be obtained.

12.11 Medication that the person may have purchased 'over the counter,' (including complementary and / or herbal medicines), must not be administered during their stay in the s136 suite.

12.12 If the person is subsequently admitted to an inpatient unit, any medication they brought in with them must be transferred to the admitting ward and assessed for continued use in the normal manner. Also, any medication specially obtained for them from pharmacy or from emergency drug cupboard stock should be transferred to the admitting ward for continued use.

12.13 If the person is subsequently released from the s136 suite without admission, any medication they brought in with them should be returned to them, unless it is felt that to do so would constitute unnecessary risk to the person or to others. If this is the case, return of their medication can be refused and a full record must be made of why this decision was taken. This record must be signed and dated by the practitioner taking responsibility for the decision.

13. PROVIDING MEDICATION TO PEOPLE DETAINED IN A POLICE CUSTODY

13.1 Where the Forensic Medical Examiner believes medication for someone detained in a police custody is required, he/she will complete the necessary form which will be included as part of the Custody record.

13.2 Prescriptions relating to the detained person’s mental health will be prescribed by the Forensic Medical Examiner at his/her discretion.

13.3 Any medication prescribed will be discussed in full with the detainee and will only be given with the detained person’s informed consent. An entry on the Custody record will be made to this effect.

13.4 If it is assessed by the FME that the person lacks capacity the FME will decide whether to prescribe / administer medication in the person’s best interests under the MCA 2005.
14. **COMPLETION OF DOCUMENTATION – POLICE CUSTODY**

14.1 The assessing doctor will be responsible for the completion of Care Notes record and, in Custody, the custody record in relation to his/her medical examination. 14.2 Where the doctor has no access to police IT system please dictate to the Custody Sergeant who will enter on doctor’s behalf.

15. **TRANSPORT / CONVEYANCE TO HOSPITAL**

15.1 Where the person is to be admitted to hospital, he/she will be transported in line with the agreed pan-Sussex s6 MHA Conveyance of Patients Policy (May 2002, revised 2006, 2008 and 2011, 2015). The AMHP will establish the most appropriate conveyance arrangements, taking account of any risks that need to be managed in the conveyance process. This includes any patient to be transported out of Sussex.

15.2 SECamb will exercise its authority to convey under s6 (1) MHA using the most appropriate vehicle for the presenting circumstances. All MHA requests for conveyance under this policy will be categorised as per NHS Pathways call triaging system and will receive a level of response appropriate to clinical need.

15.3 If a person is being compulsorily detained under the MHA is likely to be violent, dangerous or risk of absconding, the AMHP may need to seek secure ambulance provision authorised by a Trust General Manager or above (on-call manager out of hours).

15.4 Transfers between Emergency Departments and Places of Safety will be by SECamb at the request of a healthcare professional.

16. **PRE RELEASE RISK ASSESSMENTS**

16.1 Following an assessment in hospital, or a pre-release risk assessment in Custody, consideration must be given to how the person will return home. It may be necessary to make arrangements for the person’s safe return home, bus pass, rail warrant or taxi in conjunction with s136 nurse or AMHP at Hospital Place of Safety or Custody Sergeant.

16.2 Where the person is assessed as vulnerable after the MHA assessment, there may be times when the AMHP and Doctor will decide on the time at which a person can be discharged from s136 while arrangements are made for the persons treatment and care in accordance with s136(2) and Code of Practice 16.25. The maximum period of detention is 24 hours unless an extension has been authorised by the doctor (see para 8.17 and 9.15); time needed to make these ‘arrangements’ would not be grounds to extend the period. The reasons and should be recorded on Care Notes by
either the assessing doctor or AMHP (and on the Custody log if applicable), ensuring that the total time detained does not exceed 24 hours. AMHPs employed by the local authority should consider their general duties under the Care Act 2014.

17. **OUT OF OFFICE HOURS ARRANGEMENTS (outside of Monday – Friday 9.00 am – 5.00 pm, and on Bank Holidays)**

7.1 Out of office emergency services deal with emergencies that cannot wait until the relevant Locality local Social Services Authority office is next open. There are three such services in Sussex: one covers the area of West Sussex County Council, one covers the area of East Sussex County Council and one for Brighton & Hove City Council.

17.2 **West Sussex Out of Hours Emergency Duty Service:**

   Availability:  5.00 p.m. to 8.00 am week days
   + Weekends and bank holidays
   Telephone:  01903 694422

17.3 **Brighton & Hove City Council AMHP Service**

   In working hours: 0300 304 0075
   Out of Hours: 01273 295555 (this is a public number and is routed initially through a couple of answer phone messages)

17.4 **East Sussex Adult Social Care AMHP & Emergency Duty Service:**

   Availability:
   Daytime Monday to Thursday 8.30 am to 4.30pm & Fridays 8.30am to 4.00pm
   Telephone:  01323 464329

   4.30pm to 8.30am Monday to Thursday 4.00pm – 8.30am Fridays,
   + Weekends and Bank Holidays
   Telephone:  01323 636399
18. CAMHS:

18.1 A child under the age of 18 years WILL NEVER be removed to, kept at, or taken to, a Place of Safety that is a police station, even if the child is extremely violent or all hospital Places of Safety are full. In the first instance all children will be accepted into one of the five hospital Places of Safety and when all five are full the child will be taken to CAMHS, Chalkhill Hospital, at Haywards Heath where they will be accommodated. In the event that this is not possible, priority will be given to the child aged 17 and under, even if it means moving an adult. If the child remains subject to s136 and also subject to arrest they cannot be removed to custody until the s136 assessment is completed.

18.2 The out of hours CAMHS Consultant on call should be contacted (telephone advice only) via Princess Royal Hospital switchboard (01444 441881 and Amberstone Switchboard 01323 440022) if it has not been possible to secure the attendance of a Consultant Child & Adolescent Psychiatrist to carry out the assessment.

18.3 In hours the local CAMHs team to the Place of Safety should be contacted.

18.4 The Urgent Help Service is also available via a duty mobile number: 07788 564997; they are available until 8.00 pm weekdays and 10.00 am - 6.00 pm Saturdays and Sundays. Admissions to Chalkhill outside of these hours are negotiated via the on-call CAMHS Consultant who will liaise with the ward.

19. MONITORING OF DETIENCES UNDER S136 MHA

19.1 Sussex Partnership NHS Foundation Trust and Sussex Police will record and report information concerning all detenions of persons under s136 MHA.

19.2 The outcomes of assessments, the total time of detention, and any other relevant observations will be recorded on the Sussex Partnership NHS Foundation Trust documentation or, if in police custody, it must be recorded on the Custody Record. It is the responsibility of the attending Doctor or AMHP to inform the person in charge of the Place of Safety or custody officer of the outcome of the assessment. If the FME is present s/he completes the Custody Record entry. If an AMHP gives a verbal report to the custody officer this should be recorded on the AMHP record.

19.3 Such information as recorded by staff of any of the agencies concerning the Protected Characteristics (see Definitions, p28) of persons detained under s136 Mental Health Act should also be reported for monitoring purposes.
19.4 This policy and procedures will be formally re-ratified by the signatory bodies 3 yearly, unless changes to legislation or practice require an earlier rewrite, and it will be for any signatory body to request a review.

19.5 Regular meetings will also be held in each of the three Sussex Partnership NHS Foundation Trust areas (Brighton & Hove City, East Sussex, West Sussex) and involve representatives of all the agencies. The purpose of such meetings will be to review all detentions, facilitate communication, discuss any problems which may arise, and to take any actions needed to ensure that the requirements and standards set out in these procedures are met. These locality meetings should work to promote a shared understanding of mental health issues and associated areas of concern that have been identified through its work.

These locality meetings will formally report to the pan-Sussex Mental Health Act Monitoring Group, convened and chaired by Sussex Partnership NHS Foundation Trust who will be responsible for the continuing governance of the protocols defined by this policy. Any material changes to the protocol must have prior agreement of the Mental Health Act Monitoring Group.
Definitions used in this document:

The Mental Health Act 1983 (MHA)
Care Act 2014
Policing and Crime Act 2017
Department of Health and Home Office (October 2017) Guidance for the implementation of changes to police powers and places of safety provisions in the mental health act 1983.

The Mental Health Act 1983 (Places of Safety) Regulations 2017

Local Social Services Authority: Section 145(1)
Approved Mental Health Professional (AMHP): Section 114
Place of Safety: Section 135(6)
Patient: Section 145(1)
Hospital: Section 145(1)
Mental Disorder: Section1 (subject to s86 (4) and s141 (6B))

Responsible Clinician: Section 34(1)
Registered Medical Practitioner (RMP): Section 12(2)
S12 Doctor:
Forensic Medical Examiner (FME):
Forensic Nurse Practitioner (FNP):
Nurse Prescriber:

PROTECTED CHARACTERISTICS (EA 2010)
Age; Disability and carers; Gender reassignment; Marriage and civil partnership; pregnancy and maternity; Race; Religion and belief including lack of belief; Sex; Sexual orientation.

Explanatory notes

“any house, flat or room where that person or any other person is living” – unless regulations/case law clarifies otherwise this relates to where the person lives whatever the nature of their tenancy. It includes gardens, yards garages and outhouses in connection to the dwelling with sole access rights, but not communal ones.

Extension of detention – extension of the period of 24 hours for a period of 12 additional hours - can only be granted on the basis of the 'condition of the patient' not on the basis of lack of resources. Must be authorised by the responsible medical practitioner (RMP). The RMP is defined in s136B as “the registered medical practitioner who is responsible for the examination of a person detained under section 135 or 136”. In Custody the authorisation must be approved by a police superintendent or higher rank (s136B(3)).
Place of Safety in the context of this policy means one of six Sussex Partnership NHS Foundation Trust Hospital Places of Safety or one of six Police Station Custody Centres across Sussex.

Identified Places of Safety
Within Sussex, the agreed designated Places of Safety are Hospital based Places of Safety provided by SPFT:
   a. Meadowfield, Worthing
   b. Langley Green, Crawley
   c. Mill View Hospital, Hove
   d. DOP, Eastbourne
   e. Woodlands, Hastings
   f. CAMHS – Chalkhill for those under 18 years if none of the Places of Safety above are available

The Code requires that the parties to this policy agree on their local designated Place of Safety. The SPFT/CCGs within Sussex may agree or commission other Place of Safety in addition to those listed during the period of this policy.

The use of Emergency Departments (A&E) has not been agreed as part of this designated list, but it is legally a Place of Safety and therefore might, in exceptional circumstances be used. However this should only happen if all parties (police and the NHS Trust responsible for the Emergency Department) are in agreement.

There is scope within the law (s135(7) (amendment P&CA2017 s81) for a person’s home to be a Place of Safety where the person, if a sole occupier agrees, or a co-occupier agrees. While this is unlikely to provide the security and containment the individual needs, it is an option that might, in special circumstances, be considered following a thorough assessment of, and plan for managing the risks is in place.

Police Custody may never be used as a Place of Safety for a child (someone under s18 years) and only in accordance with Regulations issued by the Secretary of State (s136A(1)- s136A(5)MHA, amendments P&CA2017 s81(6)).

No medical evidence is required (paragraph 4.1 of this policy) - there only needs to be a reasonable belief.

The point at which the s136 MHA ceases is determined by the AMHP and the doctor (paragraph 8.23).
Case law:

s135 case law

R (Sessay) v South London and Maudsley NHS Foundation Trust and another (2011)
[2011] EWHC 2617 (QB)

Ward v Metropolitan Police Commissioner and another (2005)
[2005] UKHL 32

R V Rosso (2003)
[2003] EWCA Crim 3242

D’Souza v Director of Public Prosecutions (1992)
[1992] 1 WLR 1073

s136 case law

MS v United Kingdom (2012)

Seal v UK (2010)
(2012) 54 E.H.R.R. 6

Seal v Chief Constable of South Wales Police (2007)
[2007] UKHL 31

R (on the application of Anderson) and others v HM Coroner for Inner North Greater London (2004)
[2004] EWHC 2729 (Admin)

Other relevant case law

Webley v St George’s (2014)
[2014] EWHC 299 (QB)

Commissioner v Hicks (2014)
[2014] EWCA Civ 3

Harriot v Director of Public Prosecutions (2005)
APPENDIX 1

Protocol for Responding to a Police Officer Prior To Detention of a person on Section 136

The Policing & Crime Act amendments now require that a police officer, as good practice, to contact a health professional prior to the use of Section 136. The aim of contacting a health professional will be to provide an opportunity to consider alternatives to the use of Section 136. It is recognised that in certain circumstances that the use of Section 136 is appropriate to manage the immediate clinical risks and the safety of the individual.

To provide access to a health professional for a police officer to contact the following services will be available and will aim to confirm if a person is known to the Trust, confirm their crisis care plan and to advise if an alternative safety plan can be agreed and detention on Section 136 is not required. The location relates to the current location of the police officer and the person that is under their care at that time.

In the event that a Section 136 is deemed appropriate the police officer should contact the Mill View hospital Unit Co-ordinator who will advise on the nearest available Place of Safety.

<table>
<thead>
<tr>
<th>Location</th>
<th>Daytime – see agreed service operational hours</th>
<th>Out of hours 9pm to 9am</th>
</tr>
</thead>
<tbody>
<tr>
<td>Brighton and Hove</td>
<td>Mental Health Rapid Response Service – 0300 304 0078 (9am to 9pm)</td>
<td>Mill View Hospital Unit Co-ordinator via pager – 07623 975101</td>
</tr>
<tr>
<td>East Sussex – Hastings &amp; Rother</td>
<td>Urgent Care Lounge – Woodlands - 07720 703 470 will liaise with Street Triage when on duty. (9am – 9pm)</td>
<td>Mill View Hospital Unit Co-ordinator via pager – 07623 975101</td>
</tr>
<tr>
<td>East Sussex – High Weald, Lewes &amp; Havens &amp; Eastbourne, Hailsham &amp; Seaford</td>
<td>Urgent Care Lounge – DOP -07738 757 866 will liaise with Street Triage when on duty. (9am – 9pm)</td>
<td>Mill View Hospital Unit Co-ordinator via pager – 07623 975101</td>
</tr>
<tr>
<td>West Sussex – Crawley, Horsham &amp; Mid-Sussex</td>
<td>Crisis Team between 09:00 – 14:00 on 01293 590440 14:00 – 22:00 police to contact WR136 who will put through to a member of street triage</td>
<td>Mill View Hospital Unit Co-ordinator via pager – 07623 975101</td>
</tr>
<tr>
<td>West Sussex – Coastal Chichester to Worthing</td>
<td>Maple Ward Meadowfield Hospital 01903 843212/843211 24/7</td>
<td>Maple Ward Meadowfield Hospital 01903 843212/843211 24/7</td>
</tr>
</tbody>
</table>
Protocol for Responding to a Police Officer Prior to the Use of Section 136 – Actions to be Completed by SPFT

The Policing & Crime Act amendments require a police officer to contact a health professional prior to the use of Section 136. On page 1 the details of the services who will respond to a police officer are provided.

When a police officer contacts a health professional we will expect the following actions to be taken:

1. Confirm the name, address and date of birth of the person

2. Complete a search on Carenotes to confirm if the person is under the care of SPFT or has been under the care of SPFT previously

3. If the person is under the care of SPFT currently identify and share the crisis plan details and current risk formulation

4. Consider an alternative management plan with the police officer based on the current presenting risks and the capacity for the police officer to agree an immediate safety plan with the person

5. An alternative management plan may include input from Street Triage/MHRRS or local mental health service which will ensure appropriate clinical risk management and safety planning

6. If detention on Section 136 is deemed appropriate the police officer should then contact the Mill View hospital Unit Co-ordinator to confirm availability of the nearest Place of Safety via pager 07623 975101

It is expected that each CDS (Care Delivery Service for East, West and Brighton) will provide a detailed plan to the relevant service with expected response to provide an alternative response where detention on Section 136 is not deemed clinically necessary.
Appendix 2

s136/135 Arrival at a Hospital Emergency Department

This form should be used to record the arrival of a person detained on s136 (or s135) when arriving for the first time at a hospital. (Not for transfers for a person who has already arrived at a Place of safety)

This form MUST go with the person when they are transferred to another Place of Safety

Name of detained person: ……………………………………………………………………………………

CIS number if known : ………………………… DoB:………………………………

Date of arrival at the Emergency Department: ……………………………………………………

Time of arrival (24hrs clock) (hh:mm): ……………………………………………………………

Reason for attendance at the Emergency Department (tick)

☐ The detained person is believed to have a medical condition requiring emergency assessment and/or treatment

☐ There is no other hospital based place of safety available

☐ Other (please state)…………………………………………………………………………………..

If police officers are NOT staying with the person, who has agreed they can leave?

Name: ………………………………………………………………………………………………………

Role: ………………………………………………………………………………………………………

Informing others:

☐ Mental health Liaison Team – name: ……………………………………………………………

☐ AMHP - name: ………………………………………………………………………………………

☐ Mill View Hospital Pager 07623 975101 – name: ………………………………………
Appendix 3 Flow chart for s136 pathway in Hospital Place of Safety

**S136 PROCEDURE - HOSPITALS**

- Police have concerns for a person who appear to have a mental disorder and is in need of immediate ‘care & control’.
- Police officer consults with health professional, i.e. Street triage, Nurse. (Contact local team for contact details)
- Can s136 be avoided by the use of a crisis plan/other intervention?

**NO**
- Patient is detained on s136 & searched appropriately.
- Police phone SPOC paper to identify available POS.
- Police call an ambulance.

**YES**
- Person consulted records.
- Police implement alternative.

**Ambulance:** Is the person medically fit to detain in Mental Health Hospital POS (Check for injuries assaulted O/R).

**YES**
- Convey to M4 hospital POS.
- Convey to nearest emergency department for assessment and/or treatment.

**NO**
- Police arrive at first place of safety.
- Time is recorded 24 hr clock starts.
- Police complete form on mobile device and email this to the staff in charge.

**Staff in charge of POS/Detained person:**
- Commences s136 monitoring form.
- Commences management of property form.
- Arranges for any specialties, i.e. interpreters, medical treatment.
- Documents all observations.
- Contacts MHA for AMHP & Doctors to do a mental health assessment.
- Accompany detained person if they transferred on s136 to A&E.

**YES**

- Medical/Physical assessment occurs (Nurse/Doctor).
- Relevant parts of monitoring form to be completed.

- MHA assessment by Doctors(s) and AMHP, joint assessment where possible

- Doctor(s) and AMHP consider interview & other information to decide on outcome of assessment.

**NO**

- Does the Person need admission?

**YES**
- Admission or return to hospital:
  - Informal
  - s2 or s3
  - return of AWOL patient

- Bed manager/Doctors arrange a bed.
- Legal papers completed.
- All other paperwork required for admission completed?

**NO**

- Discharge from s136
  - with follow up
  - without follow up

- Person can be held for 24 hours while arrangements are made for their ‘treatment & care’ by AMHP & Doctors.

- AMHP arranges conveyance to hospital, usually in an ambulance, according to conveyance policy.

**CLOCK STOPS:**
- Time recorded on monitoring form.
s135/s136 extension of time period (up to 12 hours)

Name of detained person: .................................................................

CIS number if known : .......................... DoB: ..........................

Date of arrival at first Place of Safety: ...........................................

Time of arrival (24hrs clock) (hh:mm): ...........................................

Location of first Place of Safety: ....................................................

Location of current Place of Safety: .................................................

A decision to extend the detention period can only be taken by the responsible medical practitioner responsible for the examination of the person detained under s135 or 136 (MHA s136B).

Name of responsible medical practitioner (RMP)...........................

Date & time of examination/consultation: .................................

Name of doctor or nurse consulting with RMP............................

Record of the decision to extend the period of detention up to 12hrs

It is not possible to complete a Mental Health Act assessment within 24 hours. The reason(s) for the extension are (i.e. physical or mental conditions of the patient that make not practicable to complete the assessment and arrangements needed)

...................................................................................................

...................................................................................................

...................................................................................................

...................................................................................................

...................................................................................................

...................................................................................................
Dr………………………………………….. is the RMP at this time.

☐ I am the doctor assessing under the MHA
☐ I am/is the on-call consultant
☐ I am/is the detained person’s consultant or their deputy
☐ I am/is the CRHTT consultant or their deputy
☐ Other (State)………………………………………………………

and authorise(s) an extension of the period of detention for ........ hours

The period of detention will now end at (time, hh:mm) : .....................

On (date, dd:mm:yy) : ..............................................................

Signature of doctor/nurse consulting with RMP or the RMP..........................................................

Name : ..............................................................................................................

OR

Signature of A&E consultant: ..............................................................

Name : ..............................................................................................................

Where the Place of safety is Police Custody

Informing the detained person of the extension

If the person is detained in police custody, the extension to the period of detention must be authorised by a police officer of the rank of superintendent or higher:

The extension was authorised by

Name of Police Officer……………………………………………………

The person was informed of the extension at (date & time)

..............................................................

By (name and role): ..............................................................

Any comments: ..............................................................
Appendix 5

Guidance for Medication Use in instances of Section 136 within Sussex Partnership NHS Foundation Trust

With a view to improving Sussex Partnership’s service to patients under the Trust’s Better by Experience initiative and following wide-ranging discussion within the Trust, it has been agreed that the clinical team should abide by the following procedure when managing medicines for those detained under section 136.

Section 136

This section empowers the police to remove a patient from a public place to a Place of Safety if it is considered the person to be suffering from a mental disorder and is immediate need of care and control. The person can be detained for up to 24 hours for the purpose of being examined by a doctor and interviewed by an AMHP in order that suitable arrangements can be made for the patient’s care and treatment.

The powers contained in this section require the person to be kept safe in the sense that harm to himself or others is prevented until he can be seen by a doctor and, if necessary, give some form of sedation.

A person detained under this section is not subject to the CTT provisions contained in part IV of the Mental Health Act (MHA). If the person has capacity to consent to treatment, the common law enables the person to refuse or accept treatment for mental disorder. However if the person is assessed to lacking capacity to consent to treatment, the treatment can be provided under the Mental Capacity Act (MCA) if it is deemed to be in the persons best interests.

Code of Practice – page 152 16:72

Detaining a patient in a Place of Safety under sections 135/136 does not confer any power under the Act to treat them without their consent. They are in exactly the same position in respect of consent to treatment as patients not detained under the MHA.

A capacity assessment in regards to consent to treatment would need to be completed and clearly documented in the patient’s notes to support any decision made regarding treatment.

Patient lacks capacity to consent to treatment – MCA can be used (best interests of the patient).

Patient has capacity to consent to treatment but is refusing treatment, cannot treat the patient.

Patient has capacity and is consenting to the treatment – treatment can be provided.
Procedure for Managing Medicines in a s136 suite – SPFT Policy

The management of medicines must conform to the Trust's Medicine's Code unless specific advice contradicting the Medicine's Code is contained in this procedure. Unless specific, approved medication storage is provided within the s.136 suite, there must be a designated adjacent ward where any medication brought in by the person can be safely stored.

Persons detained under s. 136 cannot be forced to take medication if they wish to refuse and are able to give informed consent. If they are assessed as lacking capacity, a 'Best Interest decision may need to be made, in accordance with the Mental Capacity Act 2005 (MCA 2005) by either a doctor or senior nurse.

The statutory principles of the MCA (2005) to be applied:

1. A person must be assumed to have capacity unless it is established that he lacks capacity
2. A person is not treated as unable to make a decision unless all practicable steps to help him to do so have been taken without success
3. A person is not to be treated as unable to make a decision merely because he makes an unwise decision
4. As act done or decision made, under this Act for or on the behalf of a person who lacks capacity must be done, or made in his best interests.
5. Before the act is done, or the decision is made, regard must be had to whether the purpose for which it is needed can be effectively achieved in a way that is less restrictive of the persons rights and freedom of action

Any use of physical restraint required must be necessary to prevent harm to the person.

The amount, type and duration of physical restraint must be proportionate to the probability and seriousness of potential harm.

Persons admitted to a s.136 suite may require medication in two circumstances:

1. Routine prescribed medications (including prescribed regularly used ‘as required’ medication)

2. Information on the person’s need for routine medication may not always be available. In all circumstances the person's medication should be confirmed as soon as practical with their GP (if they have one and is known). This will apply even when the person or their carer provides information or brings in labelled medication, as the information provided may be inaccurate or out of date.

All evidence and information should be recorded on the documentation included in the Assessment of Persons under Sections 135 and 136 of the Mental Health Act 1983 policy.
YOUR RIGHTS UNDER MENTAL HEALTH ACT 1983 SECTION 135/136:

PERSON’S NAME ........................................................................................................
PLACE OF DETENTION ................................................................................................
DATE OF DETENTION ................................................................................................
TIME OF DETENTION AT HOSPITAL ........................................................................

Why am I here?

You have been brought to this Place of Safety by a Police Officer under Section 136 of the Mental Health Act 1983 because it is felt that you may have a mental disorder.

How long will I be here?

You can be kept here for 24 hours so that you can be seen by a doctor and an Approved Mental Health Professional (AMHP). If these people agree you need to remain here another doctor will be called. You must not leave during this time unless a doctor tells you that you may. If you try to go, the staff can stop you, and if you leave, you can be brought back.

If the assessment is not completed by the end of 24 hours you will be free to leave.

A doctor involved in your assessment can authorise an extension for 12 hours based on your condition.

What happens next?

When the doctor and an Approved Mental Health Professional have seen you, they may say that you need to be in hospital. They will tell you why and for how long it is likely to be, and you will be given another leaflet to tell you what will happen. If they decide that you do not need to stay, someone will talk to you about what other help you may need.
Can I appeal?

No. You cannot appeal against the decision to hold you in a Place of Safety under Section 136.

Will I be given treatment in the Place of Safety?

The doctor will tell you about any treatment he thinks you need. Only in very exceptional circumstances, which would be explained to you, can you be given treatment you do not want.

Letting someone know you have been detained

You have the right to have someone informed that you have been detained here.

Your letters in the Place of Safety

Any letters sent to you will be given to you. You can send letters to anyone except someone who has said they do not want to get letters from you. Letters to these people can be stopped.

How do I complain?

If you want to complain about the way you are being treated in the Place of Safety you should speak to anybody involved in your detention. If you are not satisfied with their answer there are complaints procedures via Sussex Partnership NHS Foundation Trust and Sussex Police. If you are not happy with the reply you can ask the Care Quality Commission to help. The Commission was set up to make sure that mental health law is used properly and that patients are cared for properly while they are in a Place of Safety.

You can write to them at:

Care Quality Commission
Edgeley House
Tottle Road
Riverside Business Park
NOTTINGHAM
NG2 1RT

or telephone them on: Tel: 03000 616161 (Press Option 1 when prompted)
Website: www.cqc.org.uk

You can also write to them after you have left the Place of Safety.

If there is anything in this document you do not understand anyone involved in your detention will help you.
S136 ESCALATION FLOWCHART FOR PLACES OF SAFETY

Changes to s136 from Policing and Crime Act 2017 implemented 11th December 2017
- Maximum period of detention is 24 hours
- 12 hour extension can be granted on clinical grounds only by an assessing doctor
- No Young Person 17 years or under can be taken to custody under s136
- Custody cannot be used for adults other than in exceptional circumstances

**CHILD**

17 years or under at point of s136 detention
Coordinator will inform local CAMHS GM, for the area of detention

Place of Safety Coordinator at Mill View monitors availability of suites via daily bed call and information shared from each suite

When only two suites are available the Brighton GM or the designated GM will be informed in day time, for out of hours this will be the Brighton on-call Manager

When all 5 suites are full, all adult services CDS Directors in working hours, and on-call Director out of hours, will be informed to instruct where the next s136 shall be taken

**ADULT**

When no suite is available, the police officer will take the person to:
- A&E even if they have no physical need
- Police Officer will stay with the person at A&E.

**CHILD**

Police Officer contacts Co coordinator to say a young person has been detained and all suites are full:
- Director or Head of Service must be informed immediately
- The child will be taken to Chalkhill if available
- The child will be given priority if it is possible to move an adult.
- If not the child will be taken to A&E
- Police Officer will stay with the child at A&E.

In any event of adult or child where no suite is available the CDS Director is to be informed in day time and on-call Director out of hours and they will instruct where the person is to be taken to.
Section 135 Mental Health Act 1983
Policy and Procedures

1. INTRODUCTION AND BACKGROUND

1.1 The MHA Code of Practice (2015) requires local social services authorities (defined in s145(1) MHA), the NHS and the local Police Authority to establish a clear policy for the use of the power to remove a person to a Place of Safety under s135 MHA.

1.2 This policy and procedures outline the roles and responsibilities of each of the organisations that are the signatory bodies. This policy and procedures therefore provide guidance for police officers and related civilian personnel, medical and/or other healthcare practitioners, and Approved Mental Health Professionals (AMHP) (defined in s114 MHA).

1.3 This policy and procedures reflect the requirements of:

- Sussex Partnership NHS Foundation Trust
- Sussex Police
- Brighton and Hove City Council
- East Sussex County Council
- West Sussex County Council
- The NHS in Sussex (including South East Coast Ambulance NHS Foundation Trust)

1.4 The overall aim of this policy and procedures is:

‘To ensure that persons detained under s135 MHA receive a competent and effective assessment of their mental health needs by a doctor and an Approved Mental Health Professional.’

1.5 This document has been prepared by the pan-Sussex Mental Health Act Monitoring Group. All the signatory bodies associated with this policy and procedures are members of this standing group. This document replaces the previous policy and procedures and has been reviewed to ensure compliance with Policing and Crime Act 2017.

1.6 The Secretary of State may by regulations:

(a) provide that an adult may be removed to, kept at or taken to a Place of Safety that is a police station, in the exercise of a power to which this section applies, only in circumstances specified in the regulations;
(b) Make provision about how adults removed to, kept at or taken to a police station, in the exercise of a power to which this section applies, are to be treated while at the police station, including provision for review of their detention.
1.7 In exceptional circumstances where the person cannot be assessed in their own home, they can be taken to the Hospital Places of Safety at Worthing, Eastbourne, Crawley, Hastings and Brighton & Hove, who will accept a s135 (1) detainee.

2. PURPOSE OF THE POLICY

- To fulfil the requirements of s135 MHA, the Human Rights Act 1998 and Police and Criminal Evidence Act 1984, Policing and Crime Act 2017, in respect of medical and social assessment of circumstances of people brought by the police to a ‘Place of Safety.’
- To ensure high quality assessments of people removed or detained under s135 Mental Health Act, and to provide a rapid and flexible service.
- To maintain good standards of practice in relationships between Sussex Police, Sussex Partnership NHS Foundation Trust, Local Social Services Authorities, and South East Coast Ambulance NHS Foundation Trust.
- To maintain the professional expertise of police officers, AMHPs, Registered Medical Practitioners and authorised persons in ensuring the proper assessment of people detained under s135 MHA.
- To obtain and monitor information on reasons for individuals being removed and detained under s135 MHA and to improve service delivery.
- Whilst the person is detained under legal framework of MHA the agencies will protect and promote human rights enhancing the underlying principles of fairness, respect, equality and dignity.

3. COMMITMENT OF SIGNATORY BODIES

3.1 Sussex Police
Sussex Police will execute warrants under s135 MHA following discussion with the AMHP team or relevant mental health staff. Sussex Police will also exercise its authority to remove and/or detain under s135 MHA. People who are so detained will be taken to a locally agreed Place of Safety.

3.2 The Signatory NHS Trusts
The Trusts (specifically, Sussex Partnership NHS Foundation Trust and South East Coast Ambulance Service NHS Foundation Trust) recognise the importance of work under s135 MHA. The Trusts are committed to providing a rapid and efficient response to requests for support and/or assessment. Sussex Partnership NHS Foundation Trust will also exercise its duties under s135 (2) MHA and will ensure authorised mental health staff have appropriate training and support to take or retake detained patients as appropriate.
3.3 **Brighton and Hove City Council, East Sussex County Council and West Sussex County Council**

Brighton and Hove City Council, East Sussex County Council and West Sussex County Council will make available Approved Mental Health Professionals (AMHPs) under s114 MHA for the purposes of assessment and will obtain and execute warrants under s135 MHA as appropriate. Brighton and Hove City Council, East Sussex County Council and West Sussex County Council commit themselves to providing an efficient and effective 24-hour response to requests for assessment. During working hours an AMHP will be provided by the local AMHP rota service and by the relevant local out of hours service at all other times.


4.1 **s135(1) Mental Health Act authorises that a warrant to enter premises to search for and remove a patient to a Place of Safety can be issued:**

“If it appears to a justice of the peace, on information on oath laid by an AMHP, that there is reasonable cause to suspect that a person believed to be suffering from a mental disorder –

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

(b) Being unable to care for himself, is living alone in any such place.”

4.2 The warrant, under s135(1) MHA authorises a constable, who shall be accompanied by an AMHP and a Registered Medical Practitioner, to enter if need be by force, any premises specified in the warrant in which that person is believed to be. (A second medical practitioner can only attend with the consent of the occupier). This is with a view to removing him/her to a Place of Safety in order to assess whether an application in respect of the Mental Health Act is needed, or whether any other action for his/her treatment and care, is required.

4.3 **The Place of Safety is defined in the MHA s135(6) as:**

- A hospital (as defined by the MHA)
- An independent hospital or care home for mentally disordered persons
- A police station (but see 4.5 in s136 Policy)
- Residential accommodations provided by a local authority under the Care Act
- Any other suitable place (subject to the restrictions set out below in 4.4)
4.4 Restrictions on places that may be used as Places of Safety

(a) a house, flat or room where a person is living may not be regarded as a suitable place unless:
   (i) 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;
   (ii) 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;
   (iii) 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;

(b) A place other than one mentioned in paragraph (a) may not be regarded as a suitable place unless a person who appears to the constable exercising powers under this section to be responsible for the management of the place agrees to its use as a Place of Safety."

A child may not, in the exercise of a power to which this section applies, be removed to, kept at or taken to a Place of Safety that is a police station.

4.5 A constable, can remove a person to a Place of Safety, (and an AMHP or person authorise by either of them) can move them to more Places of Safety, during the ‘permitted period of detention’ which is 24 hours. The time commences at the time the person arrives at the Place of Safety, or if they are kept at the premises specified in the warrant, at the time the constable first entered the premises to execute the warrant.

5 APPLYING FOR A WARRANT – s135 (1) MHA (Appendix 1)

5.1 The experience of AMHPs in the use of s135 (1) MHA warrants varies widely. AMHPs should therefore be as familiar as possible with the requirements for the execution of the warrant, as court staff and police officers are often also unsure as to their roles.

5.3 Applications for warrants, where the application is to be made during the working hours of 10.00 am to 4.30 pm Monday to Friday, are obtained via an on line HMCS booking system. The AMHP will need to complete the Information statement (Statutory Form MH70) and the Warrant form (Statutory form MH71) for s135 (1) MHA. Additionally, the AMHP should prepare a written report briefly outlining the grounds met and which provides ‘relevant and sufficient’ evidence for the issue of a warrant. This should be completed in ‘Word format’ as the warrant will be endorsed electronically by the Magistrate/Judge.
5.4 AMHPs should refer to the most recent guidance or protocol from the magistrates’ court about the process for applying for warrants for both in and out of hours

6. **APPLYING FOR A WARRANT – s135 (2) MHA – Appendix 1**

6.1 s135 (2) MHA authorises that a warrant authorising any constable to enter premises, if need be by force, to remove a patient to a Place of Safety can be issued -

“If it appears to a justice of the peace on information on oath laid by any constable or other person, who is authorised under the MHA, that:

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

b) Admission to the premises has been refused, or that a refusal of such admission is apprehended.”

The warrant enables the patient to be taken to any place, or taken into custody, or to be returned to hospital if already liable to be detained under the MHA. This will include patients who are liable to be detained but for whom conveyance to hospital has not been possible due to refusal of entry to the premises where they are at present. It also applies to a patient under guardianship who has absconded from a place where they are required to reside.

6.2 The justice may issue a warrant authorising any constable to enter the premises, if need be by force, to remove the person. The constable may be accompanied by a Registered Medical Practitioner or by any person authorised by or under the MHA to take or retake the patient. (See also paragraph 6.3).

6.3 Patients who are absent without leave from hospital, or from the place where the patient is required to live under guardianship, can be re-taken up to six months after going absent (if detained under s3 MHA), or until the expiry date of the current authority for their detention or guardianship, whichever is the later. (These time scales do not apply to patients subject to Restriction Orders under s41 or s49 MHA). Moreover, a patient cannot be forcibly returned to hospital if the period for which he was liable to be detained under s2, s4, s5 (2) or s5 (4) MHA has expired.

6.4 There may be occasions when a s135(2) warrant is required for patients on Supervised Community Treatment who fail to return to hospital upon being recalled, or abscond from the hospital following recall. They can be taken into custody by an AMHP, a member of staff, a police officer, or anyone authorised in writing by the responsible clinician or the hospital managers up
to six months after going absent or until the date the community treatment order ceases to be in force, whichever is the later.

6.5 Magistrates Courts charge for the warrant, and Sussex Partnership have now arranged a billing system with HM Court & Tribunal Service so that the Trust will be charged and the duly authorised person will not have to pay immediately.

7. **STANDARDS FOR PRACTICE**

7.1 Warrants will only be executed by the constable if, in the event, entry to the premises can only be achieved by the use of the warrant. To that extent the level of police intervention and force must be proportionate to the assessed level of risk at the premises.

7.2 When entering the person’s property, the AMHP (or other duly authorised health professional for s135 (2) MHA – see paragraph 9 of the policy and procedures below) will ensure the minimum number of professionals necessary to execute the provisions of s135 MHA in line with good practice. Additional professionals such as a second medical practitioner can only enter and remain in the premises with the consent of the owner. If asked to leave, and thereby preventing the full assessment of the person’s mental health needs it may be necessary to remove the person to a Place of Safety.

7.3 When a person is conveyed to a Place of Safety under a s135 warrant the law states the AMHP for s135 (1) or duly authorised person for s135 (2) must accompany the detainee with the papers. This means travelling with the person, other than in circumstances of exceptionally high risk when the papers should be with the conveyance and AMHP or professional travels behind.

7.4 All people subject to s135 MHA who are taken to a Place of Safety will be given an information leaflet on s135 MHA.

7.5 Where somebody has been taken to a Place of Safety for assessment, the following standards apply:

- As a minimum standard, all assessment should commence within three hours from the time the person arrives at the Place of Safety.
- Assessments should be completed within six hours.
- Assessments will be undertaken jointly by an AMHP and the relevant medical practitioner.
- Where a detained person has a learning disability, or is an adolescent (under18) every effort will be made to ensure the medical practitioner will have experience in this field. This should not however cause unreasonable delay to the assessment. Where specialist medical practitioners are not available, the reason(s) will be recorded.
Where a person is being assessed by a doctor other than by his or her own general practitioner, the doctor should ideally be an approved clinician, approved under s12(2) Mental Health Act. All detentions in a Place of Safety under s135 Mental Health Act will be recorded on agreed documentation.

7.6 Applications for warrants under s135 Mental Health Act and detentions in a Place of Safety will be subject to an annual review by the signatories to this document.

8. OPERATIONAL PROCEDURES DURING WORKING HOURS – s135 MHA (1) & (2)

8.1 Having established that the grounds for an application are met, and that an application is justified in terms of the Human Rights Act, the AMHP (or duly authorised health professional in relation to s135(2) MHA) will contact the Sussex Police local neighbourhood team Inspector or Sergeant to forewarn about the process and to discuss any actions needed. Alternatively the AMHP or duly authorised health professional will telephone the call handling centre (telephone 101) and ask for the duty inspector for the area in which the warrant is to be executed. On receiving the request, Sussex Police will create a Serial Log, generating a unique reference number. Sussex Police and the AMHP or duly authorised health professional will jointly risk assess the execution of the warrant, exploring all sources of risk knowledge available.

If an agreement cannot be reached regarding timescales for appropriate action, following a joint risk assessment, the concerns must be escalated within the management structures of the relevant authorities so that a decision can be reached as to how risks are managed appropriately.

8.2 All agencies involved will enquire into the background of the patient (as known to his/her agency) and exchange relevant information, for example:

- The time and place of the proposed assessment;
- The identity of the person to be assessed;
- The premises to be entered;
- The type of any equipment required to effect an entry;
- The identity of the professionals involved;
- The location of the Place of Safety; and
- The name and telephone contact number of the AMHP responsible for organising the assessment and the subsequent conveyance of the patient.

8.3 In the execution of a s135 (1) MHA warrant a constable shall be accompanied by:

a) an AMHP and
b) a Registered Medical Practitioner
and in the execution of a warrant issued under s135 (2) MHA above a constable may be accompanied:

a) by a Registered Medical Practitioner;
b) by any person authorised by or under this Act to take or retake the patient. (It is good practice that whenever possible the constable will be so accompanied. A Health Care Professional known to the patient may be more appropriate than an unknown AMHP in this circumstance.)

8.4 The AMHP/duly authorised Health Care Professional will Either refer to 5.3 – 5.4 5.5 or Apply for a warrant. Where the application is to be made during the working hours of 10.00 am to 4.30 pm Monday to Friday, are obtained via an online HMCS booking system. The AMHP will need to complete the Information statement (Statutory Form MH70) and the Warrant form (Statutory form MH71) for s135 (1) MHA. Additionally, the AMHP should prepare a written report briefly outlining the grounds met and which provides 'relevant and sufficient' evidence for the issue of a warrant. This should be completed in 'word format' as the warrant will be endorsed electronically by the Magistrate/Judge.

8.5 The AMHP/duly authorised Health Care Professional will ensure that any intervention under s135 MHA can be justified with 'relevant and sufficient' evidence in order to be compatible with the Human Rights Act 1988 and the European Convention on Human Rights (ECHR). The Justice of Peace will consider any application within the context of Article 5 of the Human Rights Act. Entry to a person’s home must therefore, in all the circumstances of the situation, be a proportionate measure within the context of this legislation.

8.6 The decision to grant a warrant to a constable or to an AMHP by a court is usually in a process that is "ex parte" – without giving notice to the person affected. The court will therefore need to be assured that, in accordance with Articles 5 and 6 of the ECHR, it is absolutely necessary that such an urgent and serious procedure is required in order to achieve the safety or protection of the person concerned. Wherever possible applications for a warrant should only be applied for within normal court hours. Applications out of hours should only be made if the application is urgent and it is intended to execute the warrant out of normal court hours. (For further information: see paragraph 4 of these procedures, below.) A payment is required by the Court and AMHPs and Trust has set up an account with HM Courts and Tribunal Services.

Out of Hours (6pm to 6AM) HM Courts & Tribunals Service Telephone Number: 020 3334 3333.

8.7 The warrant issued will specify the name of the person sought (if known), the date of issue, and the address of the premises.

8.8 Four copies of the warrant will be made, with copies clearly marked as such:
If the warrant has been obtained electronically, a printed white copy will be obtained for each of the required recipients as detailed below.

If the warrant is a carbonised document, then:

- One copy (coloured green) will be given to the police officer effecting entry.
- One copy (coloured pink) will be given to the person removed, or left in a prominent place in the premises entered.
- One copy (coloured white) will be retained by the AMHP/duly authorised health care professional.
- All 4 copies to be endorsed, and uploaded only if warrant executed.

8.9 Where the Place of Safety is any place other than a police station, a further copy of the warrant, either electronically printed or (coloured yellow) will be given to the unit manager.

8.10 Entry to the premises must take place within three calendar month of the date of issue of the warrant; the warrant can however only be served on one occasion.

8.11 The original warrant must be returned to the Clerk to the Justices by the AMHP or duly authorised person for s135 (2) MHA as soon as possible after the three month in which it expires, whether used or not. The warrant will then be kept by the Clerk to the Justices for a minimum of twelve months. It will be made available for inspection by the occupier of the premises concerned on request.

8.12 The AMHP should give consideration to how the attendance at the address and the execution of the warrant is to be managed. They should consider the likely need to remove the person to a Place of Safety and prepare for this eventuality by liaising with the nurse responsible for the ‘Single Point of Contact’ who can advise on a contact with the most appropriate Place of Safety. SPFT will make arrangements for the appropriate Place of Safety to be closed to other ‘admissions/removals’ for a period of time to allow for the attendance at the home address and removal of the person. In these circumstances the AMHP is responsible for keeping the nurse responsible for the Place of Safety informed of progress and any delays. Removal to Custody is not an option except in ‘exceptional circumstances’.

8.13 The AMHP (or duly authorised health care professional in relations to s135 (2) MHA) should consider the appropriate form of ambulance transport in case the person is removed to the Place of Safety. SECAmb will not take advance booking until it is certain that the person is to be removed. This means that entry will need to have been made, the person to be assessed found and a decision made to remove to the Place of Safety. At that point a SECAmb request for an ambulance can be made on the non-emergency number in line with the Conveyance Policy. On receiving the request SECAmb will create a log, generate a unique booking reference number and supply this to the AMHP/duly authorised health care professional. As the power to remain in the
premises and subsequently remove the person is a police power, the police will remain at the premises with the AMHP/duly authorised health care professional to await the arrival of the ambulance. SECAmb will endeavour to attend within Ambulance Response Programme Category 2 response time of 18 to 40 minutes.

In some areas of Sussex there is provision for the use of secure and private ambulances. Where this is possible an AMHP should consider, if the risk indicate the need, requesting funding for a private booking which will allow for the ambulance to be present at the location in advance of entering the property. AMHPs/duly authorised health care professional will need to evidence the need for this request.

8.14 If the occupier of the premises is present at the time when a constable seeks to execute the warrant, the constable shall:

a) identify him/her

b) produce the warrant to him/her supply him/her with a copy of it

8.15 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.

8.16 If there is no person present who appears to the constable to be in charge of the premises, the constable shall leave a copy of the warrant in a prominent place on the premises.

8.17 Sussex Police and the AMHP or duly authorised person for s135 (2) MHA will agree a location to rendezvous for tactical briefing and for all Police officers to be shown a copy of the warrant. During the briefing each party should define his/her individual roles and how they intend to carry them out. On arrival at the premises the AMHP MUST request entry (the sight of a police uniform may only serve to exacerbate the situation). If entry is refused Sussex Police will be asked to execute the warrant.

8.18 After entering the premises the AMHP and the Registered Medical Practitioner shall determine whether it is necessary to remove the person to a Place of Safety for the purposes of conducting the assessment, either at the premises or at the Place of Safety to decide whether an application under the MHA is needed.

8.19 It is usually good practice to have two doctors in attendance (a doctor approved under s12(2) MHA and a general practitioner) to conduct an assessment within the person’s home or Place of Safety and make a decision whether or not to make an application for compulsory admission to hospital under the MHA. A second doctor entering and attending the premises is there by the occupier’s consent only. If at any time the occupier declines for the second doctor to be present then the assessing team and police should
consider if it is proportionate for the police to remove the person to the Place of Safety.

8.20 The person may be detained in any Place of Safety for “the permitted period of detention” which means a maximum of 24 hours for the purpose of assessment and arranging appropriate treatment or care. The 24-hour period commences once the person has arrived at the Place of Safety, or if kept at the address specified in the warrant, the time at which the police officer first entered the premises. Once assessment has been completed, and arrangements have been made for his/her care, the detention ceases.

8.21 **Time Extensions:** There is provision for the Registered Medical Practitioner, responsible for the examination of the person detained under s135 to authorise a further period of detention, to commence at the end of the 24 hours, not exceeding a further 12 hours (s135 (3ZA) and s136B). The grounds are that “the condition of the detained person is such that it would not be practicable for the assessment of the person….to be carried out before the end of the period of 24 hours” or if it were to commence for it to be completed. It is expected to relate to individuals whose assessment is delayed due to their presentation (such as intoxication) or their need for medical treatment (such as for an overdose). Staff shortages, delays in attending, or the lack of other resources, such as hospital beds, are not considered to be aspects relating to ‘the condition of the detained person’ and therefore would not be grounds that would justify an extension.

8.22 **Time Extensions.** The authorisation of an extension should be authorised by the Registered Medical Practitioner. This is most likely to be one of the doctors involved in the assessment under the MHA, who, around, or at the time of the assessment, decides the criteria are met to authorise an extension of up to 12 hours. The extension must be authorised within the initial permitted period of detention (i.e. the first 24 hour period). The decision should be recorded on Care Notes and the form “s136/135 extension of time period (up to 12 hours)” Appendix 5. This form should be kept with the detained person’s paper work and uploaded onto Care Notes.

8.23 Time Extensions. The authorisation should state:
- the time the authorisation is granted,
- the reason for the authorisation,
- the new end time for the s136,
- The doctor’s name and status.

8.24 Once a person has been removed to the Place of Safety he/she can be transferred to one or more Places of Safety within the permitted period of detention. If the assessment results in an application to hospital under the Mental Health Act (e.g. s2 or s3 MHA) the person will be conveyed in accordance with the pan-Sussex s6 MHA Conveyance to Hospital Policy.
A section 135(1) or section 135(2) warrant can only be used once. An electronic section 135 warrant 
\textit{cannot be held on the person's file or any email system for future use} once it has been executed. Procedures must be put into place as detailed above in respect to returning the warrants to the Magistrates Court once executed or expired.

\section*{9. ARRANGEMENTS WHEN EXECUTING A WARRANT UNDER s135 (2) MHA}

\subsection*{9.1} The same arrangements will apply in getting the warrant authorised – see paragraph 4 - and following these procedures, above.

\subsection*{9.2} A Police constable will be accompanied by an appropriately qualified mental health professional. The latter would include: a suitably qualified member of the nursing staff from the ward, a doctor, or a suitably qualified member of the local community mental health service. Any such staff would need to be authorised to take or re-take the patient.

\subsection*{9.3} In line with good practice, the care co-ordinator or a suitably qualified named nurse should be involved, wherever possible, in obtaining and executing any warrant in relation to s135 (2) MHA.

\subsection*{9.4} There is an expectation that ward staff will normally be responsible for the return of patients who are absent without leave from the hospital and staff who knows the patient will be responsible when a Community Treatment Order is recalled. An AMHP will be involved if an application has been signed and the person is liable to detention but has not arrived at hospital.

There should not be delay because there is a dispute between professionals over who is the appropriate authorised person to attend the Magistrate Court to seek a warrant. Should this happen advice will be sought from a General Manager, or On Call Manager if out of hours, to make a decision and avoid any delay which may increase risk to the patient.

\subsection*{9.5} Where a warrant has been served under s135 (2) MHA, the person shall be removed to a place where he/she is required to reside under the terms of his/her detention or guardianship. Where the need arises, the person can be taken to a Place of Safety in order to enable the Registered Medical Practitioner, and/or a person authorised under the MHA, to make arrangements for his/her treatment and care.

\section*{10. OPERATIONAL PROCEDURES OUTSIDE WORKING HOURS – s135 MHA}

\subsection*{10.1} The granting of warrants outside normal Court working hours is considered to be an exceptional activity and should therefore be avoided. Having established that this is not the case, it will be necessary to contact one of the Court Services legal advisers before approaching a duty magistrate. All
applications for out of hours warrants must be screened first by a Court Services legal adviser, Telephone: 020 3334 3333.

10.2 The Court Services legal advisor will require the following:
- the name, address and telephone number of the person seeking the warrant;
- the nature of the application including the statutory provision and brief facts;
- the time when the application is sought to be made;
- the name(s) of the person(s) who will be attending to make the application; and
- the time it is intended to execute the warrant.

10.3 The Court Services legal advisor will advise of the location of the duty magistrate and confirm what actions are necessary. Staff will need to be prepared to show their official identity card to the duty magistrate.

10.4 The member of staff executing the warrant should ensure that an endorsed copy is returned to the office of the Clerk to the Justices at the local Court.

11. PROTECTION OF PROPERTY

11.1 Under the Care Act 2014 Brighton & Hove City Council, East Sussex County Council, and West Sussex County Council have a duty to ensure the temporary protection of property for persons, in their area, admitted to hospital or accommodation.

11.2 The member of staff co-ordinating the removal of the person will contact the relevant officer/manager within the Locality Adults’ Services office who is responsible for organising the protection of property, in order to arrange for the property to be secured. This person will usually be the office manager.

11.3 If a property is to be secured out of working hours the relevant emergency Out of Hours Service will arrange this.

11.4 If a s135 (2) warrant is used to return an AWOL patient or to recall someone on a CTO, any resulting damage to property is the responsibility of Sussex partnership NHS Foundation Trust. Staff executing these warrants needing financial authority to make property secure or repair damage should contact their general manager for the Trust.

11.5 Where a warrant under s135 MHA has NOT been used, but police officers have gained forced entry to premises using their powers under the Police and Criminal Evidence Act 1984, any damage to property will be the responsibility of Sussex Police.
12. EVALUATION AND MONITORING OF ACTIONS UNDER s135 MHA

12.1 Sussex Police will record information concerning the times and dates of a warrants executed under s135 MHA.

12.2 Such information as recorded by staff of any of the agencies concerning the ethnic origin of persons removed under s135 MHA should also be reported for monitoring purposes.

12.3 This policy and procedures will be formally reviewed on a regular basis. The annual review will be undertaken by the pan-Sussex Mental Health Act Monitoring Group, convened and chaired by Sussex Partnership NHS Foundation Trust. All the signatory bodies associated with this policy and procedures are already members of this standing committee. The purpose of the annual review will be to receive a progress report on achieving the standards outlined in this document, to assess progress in achieving alternative locations for a Place of Safety, and to review the continuing relevance of this document.

12.4 Regular meetings will also be held in each of the three Sussex Partnership NHS Foundation Trust areas (Brighton & Hove City, East Sussex, West Sussex) and involve representatives of all the agencies. The purpose of such meetings will be to review all detentions, facilitate communication, discuss any problems which may arise, and to take any actions needed to ensure that the requirements and standards set out in these procedures are met. These area meetings should work to promote a shared understanding of mental health issues and associated areas of concern that have been identified through its work. These meetings will formally report to the pan-Sussex Mental Health Act Monitoring Group, convened and chaired by Sussex Partnership NHS Foundation Trust, who will be responsible for the continuing governance of the protocols defined by this policy. Any material changes to the protocol must have prior agreement of the Mental Health Act Monitoring Group.
Definitions used in this document:

The Mental Health Act 1983 (MHA)
Policing and Crime Act 2017
Department of Health and Home Office (October 2017) Guidance for the implementation of changes to police powers and places of safety provisions in the mental health act 1983.
The Mental Health Act 1983 (Places of Safety) Regulations 2017

Local social services authority: Section 145(1)

Approved Mental Health Professional s114
Place of Safety: Section 135(6)
Patient: Section 145(1)
Hospital: Section 145(1)
Mental Disorder: Section 1(subject to S 86(4) and 141 (6B))
Responsible Clinician: Section 34(1)

Persons authorised to re-take patients under s18 Mental Health Act are, in addition to a constable:

any suitably qualified member of staff of the hospital where the person is liable to be detained;

any person authorised in writing by the hospital managers;

any AMHP;

in the case of a patient subject to guardianship, any suitably qualified member of staff on the staff of the local Social Services Authority, or any person authorised in writing by the guardian.

Case law:

Ward v Commander of Police for the Metropolis [2003], EWCA Civ 1152, [2003] 1 WLR 2413.
R (Sessay) v South London and Maudsley NHS Foundation Trust 2011
EWHC 2617 (QB)
Appendix 1:
Section 135 – Removal from a private place to a Place of Safety

Use of section 135(1) or section 135(2)

Is the person liable to be detained?

The patient:
- has been detained under the MHA or assessed as detainable and
  - is AWOL from hospital; or
  - has absconded whilst being conveyed to hospital. If they haven’t reached the hospital is the section complete? Can we retake?
  - an application has been made and bed available as above
- The patient is subject to guardianship and is AWOL; or
- The patient is a CTO patient who has not returned to hospital following recall or absconded following recall.

No

There is reasonable cause to suspect a person is suffering from:
- a mental disorder; and
- s/he has been or is being ill-treated or neglected, or kept otherwise than under proper control; or
- is unable to care for themselves alone

Consider use of section 135(1)

Only the AMHP may apply to the Magistrate’s Court for a s135 (1) warrant

Magistrates can issue a warrant under s135 (1) to enter, if need be by force, any premises specified in the warrant in which that person is believed to be, and, if thought fit, to remove him to a Place of Safety with a view to arranging a MHA assessment

Yes

Consider use of section 135(2)

Any authorised officer (Trust staff, AMHP or police officer) may apply for a section 135(2) warrant

Magistrates will issue a warrant under s135 (2) if they are satisfied that:
- There is reasonable cause to believe that the patient is to be found on the premises
- Admission to premises is refused or refusal is apprehended