

	Date	Changed by	Summary of change
1.0	28/07/22	Mark Hill	Implementation of version control

Guidance on gaining entry to properties without using police force, when using s135.

Introduction

Service users report that the execution of a warrant, pursuant to s135(1) of the Mental Health Act 1983, is often a distressing occasion for them. The use of a battering ram, referred to colloquially as “the big red key”, to breakdown doors is a destructive process which further adds to service user distress. Furthermore, it is an undignified approach which potentially criminalizes service users and adds to the stigma associated with mental disorders. Article 3 of the Human Rights Act 1998 protects people from torture and inhuman or degrading treatment. Therefore, this guidance aims to suggest, and outline alternative compassionate, humane, and proportionate methods of gaining access to service users’ properties.

When service users are known to open the door

In most cases, if the patient is likely to/is known to open the door, in the first instance, police can quickly secure access (by entering the property or even by placing a foot inside the door to stop it being closed again) and executing the warrant immediately. Access can then not be taken away from the police and assessing team.

For communal access into shared buildings police often have a fire key that allows access through the communal door, this could be checked when arranging the police for the assessment. Housing associations/council will also likely be able to grant access through a communal entrance.

People receiving care and support

Some people might have key safe’s outside of their properties to enable health and social care professionals to gain access. If this is the case the code can be requested from the agencies, or professionals.

- a) Privately rented
- b) Council or housing association
- c) Privately owned
- d) Temporary accommodation (ie hotel)
- e) University accommodation
- f) Residential placements
- g) Supported accommodation

a) Privately rented properties

Considerations.

Is there anyone else living in the home who could give access (partner, parent etc.)?

Are there any other family/friends/neighbors/carer's with a key who could give access?

If it is a flat share, consider maintaining confidentiality when thinking about asking others to give access.

Can the landlord give access, again we need to consider confidentiality?

a) Council or housing association properties

Considerations;

Is there anyone else living in the home who could give access (partner, parent etc.)?

Are there any other family/friends/neighbors/carer's with a key who could give access?

If it is a flat share, consider maintaining confidentiality when thinking about asking others to give access.

The council or housing association usually won't have a key to the front door (they may be able to give access through communal doors) but they may be able to provide a locksmith in order to avoid damage to the front door. See appendix A for list of local numbers in relation to this.

b) Privately owned properties

Considerations;

Is there anyone else living in the home who could give access (partner, parent etc.)?

Are there any other family/friends/neighbors/carer's with a key who could give access?

Confidentiality issues to be considered.

c) Temporary accommodation

Considerations;

It is less common to require a s135(1) warrant for access to this type of property, however if the client has for example barricaded the door or the police are required to manage risk then a warrant might be sought.

The provider of the accommodation usually has keys to access these types of accommodation. This could be arranged either directly with the accommodation or via the council who placed the person

if verification is needed. If a locksmith is needed, query whether this could be arranged/paid for by the temporary accommodation or the placing council.

d) University accommodation

Please see specific agreement between KCC and Kent Universities - appendix B

e) Residential placements

Considerations:

In nearly all cases, the staff and management of a residential setting would be able to provide access to all areas of the setting, including the patient's bedroom, in order for access to be gained when executing a warrant under s135. If for any reason they are unable to grant access to the patients room because the door has been locked and they don't have a key, then it would be appropriate to liaise with the management of the setting to negotiate how they would access the patients room in an emergency (what is their protocol?) and if a locksmith is needed, do they have scope to make the arrangements and payment for this? This would avoid damage to their property by the police forcing the door and would avoid the disruption and distress this would cause to other residents in the home.

f) Supported accommodation

In some supported accommodations, in which service users have tenancies, staff can access the room/ accommodation if there are health and safety concerns. Discussions would need to take place with the staff team who will be able to share details of the conditions under which they are able to gain access without the service user's consent. In most, if not all cases, the staff team hold spare keys for the room/ accommodation.

Appendix A – List of Contacts for Countywide

West Kent

Maidstone: - Golding homes	Main call Centre number 0300 777 2600, can arrange locksmith in office hrs. 24hr notice required. Can arrange estates to attend to open block of flats entrance doors
Sevenoaks: West Kent Housing Association	Main call Centre number 0300 777 2600 (number will redirect if out of hours)
Tonbridge and Malling:- Clarion Housing Group	0300 500 8000. 24 hr. notice.
Tunbridge Wells various associations.	Town & Country Housing 01892 501 480 Orbit 08458 500 500 Moat 01792 457 616 Hyde 0800 328 2282 Hastoe 0300 123 2250

North Kent

Dartford: - Dover BC (not a very helpful team)	01322 343800
Gravesham Swanley: - Via (<i>Paul Gilbert Senior Housing Officer Gravesham Borough Council</i>)	01474 33 73 59 You can also arrange a housing officer to attend using these numbers 01474 337777 option 2. Ring 01474 56 44 22 during OOH. Ring 01474 33 75 17 during the daytime

Medway

Mears housing	01634 799 432 and ask to book a gain entry
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East Kent

Ashford: - Ashford BC	Booking a gain entry Ring housing duty officer 01233 330688. Option 4
Canterbury / Dover SK Coast / Thanet	01303 765824
Swale: - Swale doesn't have a works dept. they outsource it to Sheppey Glass as their locksmith and property securing company.	24 Broadway, Sheerness ME12 1AF 01795 580006 they will go to the island.

Document owner Helen Burns AMHP service manager

Agreed AMHP DIV MT 07-22

Review 08-23

Appendix B - Protocol for facilitating AMHP service staff/MHA assessments on campus

- It is recognized that, when staff from the Kent AMHP (Approved Mental Health Practitioner) service come onto campus to conduct a mental health assessment, this is usually following some concern being raised that a student may be presenting a risk to themselves or others.
- In recent national discussions regarding the provision of mental health support by universities, there has been a particular focus on the need for various relevant partners to work closely together to ensure that students receive an intervention in a timely fashion, by removing any unnecessary barriers to that support.
- The University of Kent has a history of strong partnership working with the local NHS and Local Authority social care sector, particularly through the University Medical Centre and Nursing Service.
- Campus Security (CS) provide a 24/7 service and are a strong element of the support provided on site, particularly in relation to ensuring the safety of students who are demonstrating signs of mental distress.
- The terms and conditions of a student's [contract](#) in University-managed accommodation includes the statement (6.3) that advance notice to enter a student's room "will not be required in the case of an emergency; where health and safety issues are suspected" and that "Access to the accommodation will be granted to 3rd parties such as the Police and Fire services and other agencies where appropriate good reason/legal authority is produced."
- AMHPs are mental health professionals (social workers, occupational therapists, psychiatric nurses and clinical psychologists) who have undertaken specialized training in the application of the law and in knowledge of mental disorder. They are registered by the Local Authority to undertake assessments under the Mental Health Act 1983 as amended by the Mental Health Act 2007 (MHA).

- Section 115 (1) of the MHA permits an AMHP at all reasonable times to enter and inspect any premises (other than a hospital) in which a mentally disordered patient is living, if s/he has reasonable cause to believe that the patient is not under proper care. This power of entry does not require a warrant but is based on the consent of the individual.
- Section 135(1) of the MHA permits entry by the police using force, if required, to remove an individual to a place of safety for assessment. S135 (1) is a warrant which can be obtained by an AMHP from the magistrate's court which gives legal authority for the police to enter the person's property and remove them to a 'place of safety' (as defined by the MHA), if need be by force. The purpose of the warrant is to allow an assessment of the individual to take place, in circumstances where it has not been possible for this to occur in a less restrictive manner. The assessment may lead to detention under the MHA or the making 'of other arrangements for his care or treatment.'
- AMHPs are instructed to always consider the 'least restrictive option' when thinking how best to provide care and treatment for the individual being assessed and it is not always the case that an assessment under the MHA will result in detention or informal admission to psychiatric hospital.

It is understood by all parties that individual situations must be handled according to the circumstances which present themselves at the time, but the following protocol is intended to provide a clear framework in which the respective professionals will work.

Framework for action when the Mental Health Team/Crisis Team request access

- If an AMHP comes onto campus for the purposes of assessing a student in their place of residence, they will report to the Campus Security building and show relevant ID. They will provide the CS Duty Manager with the name of the student that they wish to visit, and any other information that they feel is relevant for the purposes of facilitating the visit. The AMHP will be accompanied by appropriate other staff/professionals, as required for the purposes of their visit.
- If the AMHP does not have a warrant (i.e. is acting under Section 115(1)), CS will accompany the AMHP to the student's room. The AMHP will seek the consent of the student to enter their room and speak with them. It will be the responsibility of the AMHP to decide whether or not that consent has been given and to record this appropriately.
- If consent is not given, the AMHP will withdraw and decide on whether authority under Section 135 of MHA is required.
- If the police and/or an AMHP presents a Section 135 warrant to the CS Duty Manager, the Duty Manager will ensure that the name/room corresponds with the accommodation records and take a copy of the warrant. The parties present will discuss and agree a joined-up plan of action. The purpose of this will be to enable access without the use of force, to reduce distress to the student, disruption to others and damage to property.
- CS will inform the College Master of the College to which the student belongs and the Head of Student Support and Wellbeing (HeadofSSW@kent.ac.uk) of the details of the incident as soon as possible to enable appropriate follow-up. If more urgent action is required out of hours, CS will inform the Duty Master.

This protocol has been approved by:

Head of Student Support and Wellbeing

Director of Student Services

Head of Security

Quality Assurance Lead, Adult Mental Health Social Work Service for Kent County Council