

POLICE POWERS AND PROCEDURES ACT 1998

CODE A

CODE OF PRACTICE ON THE EXERCISE BY POLICE OFFICERS OF STATUTORY
POWERS OF STOP AND SEARCH

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1.0 General

- 1.01 This code of practice must be readily available at all police stations for consultation by police officers, police staff, detained persons and members of the public.
- 1.02 The notes for guidance included are not provisions of this code, but are guidance to police officers and others about its application and interpretation. Provisions in the annexes to the code are provisions of this code.
- 1.03 This code governs the exercise by police officers of statutory powers to search a person or a vehicle without first making an arrest. The main stop and search powers to which this code applies are set out in Annex A, but that list should not be regarded as definitive (see *Note 1*). In addition, it covers requirements on police officers and police staff to record encounters not governed by statutory powers. This code does not apply to:
- (a) the powers of stop and search under:
 - (i) the Aviation Security Act 1982 (of Parliament), section 27(2) (as it has been applied and extended to the Island¹), and;
 - (ii) Not used;
 - (b) searches carried out for the purposes of examination under Schedule 7 to the Anti-Terrorism and Crime Act 2003 and to which any relevant Code of Practice issued under paragraph 6 of Schedule 12 to the Anti-Terrorism and Crime Act 2003 applies;
 - (c) the powers to search persons and vehicles and to stop and search in specified locations to which any Code of Practice issued under section 47AB of the Terrorism Act 2000 applies..

1 Principles governing stop and search

- 1.1 Powers to stop and search must be used fairly, responsibly, with respect for people being searched and without unlawful discrimination. When police officers are carrying out their functions they also have a duty to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation, to advance equality of opportunity between people who share a relevant protected characteristic and people who do not share it, and to take steps to foster good relations between those persons. (See *Notes 1* and *1A*.)
- 1.2 The intrusion on the liberty of the person stopped or searched must be brief and detention for the purposes of a search must take place at or near the location of the stop.
- 1.3 If these fundamental principles are not observed the use of powers to stop and search may be drawn into question. Failure to use the powers in the proper manner reduces their effectiveness. Stop and search can play an important role in the

¹ Civil Aviation Security (Application) Order 1992 [GC 81/92] as amended.

detection and prevention of crime, and using the powers fairly makes them more effective.

- 1.4 The primary purpose of stop and search powers is to enable officers to allay or confirm suspicions about individuals without exercising their power of arrest. Officers may be required to justify the use or authorisation of such powers, in relation both to individual searches and the overall pattern of their activity in this regard, to their supervisory officers or in court. Any misuse of the powers is likely to be harmful to policing and lead to mistrust of the police. Officers must also be able to explain their actions to the member of the public searched. The misuse of these powers can lead to disciplinary action.
- 1.5 An officer must not search a person, even with his or her consent, where no power to search is applicable. Even where a person is prepared to submit to a search voluntarily, the person must not be searched unless the necessary legal power exists, and the search must be in accordance with the relevant power and the provisions of this Code. The only exception, where an officer does not require a specific power, applies to searches of persons entering sports grounds or other premises carried out with their consent given as a condition of entry.

2 Explanation of powers to stop and search

- 2.1 This code applies, subject to paragraph 1.03, to powers of stop and search as follows:
 - (a) powers which require reasonable grounds for suspicion, before they may be exercised; that articles unlawfully obtained or possessed are being carried;
 - (b) authorised under section 3 of the Police Powers and Procedures Act 1998 (PPPA), based upon a reasonable belief that incidents involving serious violence may take place or that people are carrying dangerous instruments or offensive weapons within any locality, or that it is expedient to use the powers to find such instruments or weapons that have been used in incidents of serious violence;
 - (c) *Not used.*
 - (d) powers to search a person who has not been arrested in the exercise of a power to search premises (see Code B *paragraph 2.4*); and
 - (e) *Not used.*

Searches requiring reasonable grounds for suspicion

- 2.2 Reasonable grounds for suspicion depend on the circumstances in each case. There must be an objective basis for that suspicion based on facts, information, and/or intelligence which are relevant to the likelihood of finding an article of a certain kind.

Reasonable suspicion can never be supported on the basis of personal factors. It must rely on intelligence or information about, or some specific behaviour by, the

person concerned. For example, unless the police have a description of a suspect, a person's physical appearance (including any of the relevant 'protected characteristics' (see *paragraph 1.1* and *Note 1A*)), or the fact that the person is known to have a previous conviction, cannot be used alone or in combination with each other, or in combination with any other factor, as the reason for searching that person. Reasonable suspicion cannot be based on generalisations or stereotypical images of certain groups or categories of people as more likely to be involved in criminal activity.

- 2.3 Reasonable suspicion may also exist without specific information or intelligence and on the basis of the behaviour of a person. For example, if an officer encounters someone on the street at night who is obviously trying to hide something, the officer may (depending on the other surrounding circumstances) base such suspicion on the fact that this kind of behaviour is often linked to stolen or prohibited articles being carried.
- 2.4 However, reasonable suspicion should normally be linked to accurate and current intelligence or information, such as information describing an article being carried, a suspected offender, or a person who has been seen carrying a type of article known to have been stolen recently from premises in the area. Searches based on accurate and current intelligence or information are more likely to be effective. Targeting searches in a particular area at specified crime problems increases their effectiveness and minimises inconvenience to law-abiding members of the public. It also helps in justifying the use of searches both to those who are searched and to the public. This does not however prevent stop and search powers being exercised in other locations where such powers may be exercised and reasonable suspicion exists.
- 2.5 Searches are more likely to be effective, legitimate, and secure public confidence when reasonable suspicion is based on a range of factors. The overall use of these powers is more likely to be effective when up-to-date and accurate intelligence or information is communicated to officers and they are well-informed about local crime patterns.
- 2.6 An example of the correct use of powers would be where there is reliable information or intelligence that members of a group or gang habitually carry knives unlawfully or weapons or controlled drugs, and wear a distinctive item of clothing or other means of identification to indicate their membership of the group or gang, that distinctive item of clothing or other means of identification may provide reasonable grounds to stop and search a person. (See *Note 9*.)
- 2.7 A police officer may have reasonable grounds to suspect that a person is in innocent possession of a stolen or prohibited article or other item for which the officer is empowered to search. In that case the officer may stop and search the person even though there would be no power of arrest.
- 2.8 *Not used.*

- 2.9 An officer who has reasonable grounds for suspicion may detain the person concerned in order to carry out a search. Before carrying out a search the officer may ask questions about the person's behaviour or presence in circumstances which gave rise to the suspicion. As a result of questioning the detained person, the reasonable grounds for suspicion necessary to detain that person may be confirmed or, because of a satisfactory explanation, be eliminated. (See *Notes 2 and 3.*) Questioning may also reveal reasonable grounds to suspect the possession of a different kind of unlawful article from that originally suspected. Reasonable grounds for suspicion however cannot be provided retrospectively by such questioning during a person's detention or by refusal to answer any questions put.
- 2.10 If, as a result of questioning before a search, or other circumstances which come to the attention of the officer, there cease to be reasonable grounds for suspecting that an article is being carried of a kind for which there is a power to stop and search, no search may take place. (See *Note 3.*) In the absence of any other lawful power to detain, the person is free to leave at will and must be so informed.
- 2.11 There is no power to stop or detain a person in order to find grounds for a search. Police officers have many encounters with members of the public which do not involve detaining people against their will. If reasonable grounds for suspicion emerge during such an encounter, the officer may search the person, even though no grounds existed when the encounter began. If an officer is detaining someone for the purpose of a search, he or she should inform the person as soon as detention begins.

Searches authorised under section 3 of the PPPA

- 2.12 Authority for a constable in uniform to stop and search under section 3 of the PPPA may be given if the authorising officer reasonably believes:
- (a) that incidents involving serious violence may take place in any locality, and it is expedient to use these powers to prevent their occurrence;
 - (b) that persons are carrying dangerous instruments or offensive weapons without good reason in any locality; or
 - (c) that an incident involving serious violence has taken place, a dangerous instrument or offensive weapon used in the incident is being carried by a person in any locality, and it is expedient to use these powers to find that instrument or weapon.
- 2.13 An authorisation under section 3 may only be given by an officer of the rank of inspector or above and in writing, or orally if paragraph 2.12(c) applies and it is not practicable to give the authorisation in writing. The authorisation (whether written or oral) must specify the grounds on which it was given, the locality in which the powers may be exercised and the period of time for which they are in force. The period authorised shall be no longer than appears reasonably necessary to prevent, or seek to prevent incidents of serious violence, or to deal with the problem of carrying dangerous instruments or offensive weapons or to find a dangerous

instrument or offensive weapon that has been used. It may not exceed 24 hours. An oral authorisation given where paragraph 2.12(c) applies must be recorded in writing as soon as practicable. (See *Notes 10 to 13.*)

2.14 An inspector who gives an authorisation must, as soon as practicable, inform an officer of or above the rank of chief inspector. This officer may direct that the authorisation shall be extended for a further 24 hours, if violence or the carrying of dangerous instruments or offensive weapons has occurred, or is suspected to have occurred, and the continued use of the powers is considered necessary to prevent or deal with further such activity or to find a dangerous instrument or offensive weapon used that has been used. That direction must be given in writing unless it is not practicable to do so, in which case it must be recorded in writing as soon as practicable afterwards.

(See *Note 12.*)

2.14A The selection of persons and vehicles under section 3 to be stopped and, if appropriate, searched should reflect an objective assessment of the nature of the incident or weapon in question and the individuals and vehicles thought likely to be associated with that incident or those weapons (see *Notes 10 and 11*). The powers must not be used to stop and search persons and vehicles for reasons unconnected with the purpose of the authorisation. When selecting persons and vehicles to be stopped in response to a specific threat or incident, officers must take care not to discriminate unlawfully against anyone on the grounds of any of the protected characteristics. (See *paragraph 1.1.*)

2.14B The driver of a vehicle which is stopped under section 3 and any person who is searched under section 3 are entitled to a written statement to that effect if they apply within twelve months from the day the vehicle was stopped or the person was searched. This statement is a record which states that the vehicle was stopped or (as the case may be) that the person was searched under section 3 and it may form part of the search record or be supplied as a separate record.

2.15 Not used.

2.16 Not used.

2.17 Not used.

2.18 Not used.

2.18A Not used.

2.19 Not used.

2.20 Not used.

2.21 Not used.

2.22 Not used.

2.23 Not used.

2.24 Not used.

2.24A Not used.

2.25 Not used.

2.26 Not used.

Powers to search in the exercise of a power to search premises

2.27 The following powers to search premises also authorise the search of a person, not under arrest, who is found on the premises during the course of the search:

- (a) section 27C of the Criminal Justice Act 1991 under which a constable may enter school premises and search the premises and any person on those premises for any bladed or pointed article or offensive weapon;
- (b) under a warrant issued under section 23(3) of the Misuse of Drugs Act 1976 to search premises for drugs or documents but only if the warrant specifically authorises the search of persons found on the premises; and
- (c) under a search warrant, authorisation or order issued under Schedule 5 to the Anti-Terrorism and Crime Act 2003 to search premises and any person found there for material likely to be of substantial value to a terrorist investigation.

2.28 Before the power under section section 27C of the Criminal Justice Act 1991 may be exercised, the constable must have reasonable grounds to suspect that an offence under section 27B of the Criminal Justice Act 1991 (offence of having article with blade or point (or offensive weapon) on school premises) has been or is being committed. A warrant to search premises and persons found therein may be issued under section 23(3) of the Misuse of Drugs Act 1976 if there are reasonable grounds to suspect that controlled drugs or certain documents are in the possession of a person on the premises.

2.29 The powers in paragraph 2.27 do not require prior specific grounds to suspect that the person to be searched is in possession of an item for which there is an existing power to search. However, it is still necessary to ensure that the selection and treatment of those searched under these powers is based upon objective factors connected with the search of the premises, and not upon personal prejudice.

Notes for guidance

Officers exercising stop and search powers

1 *This Code does not affect the ability of an officer to speak to or question a person in the ordinary course of the officer's duties without detaining the person or exercising any element of compulsion. It is not the purpose of the code to prohibit such encounters between the police and the community with the co-operation of the person concerned and neither does it affect the principle that all citizens have a duty to help police officers to prevent crime and discover offenders. This is a civic rather than a legal duty; but when a police officer is trying to discover whether, or by whom, an offence has been committed he or she may question any person from whom useful information might be obtained, subject to the restrictions imposed by Code C. A person's unwillingness to reply does not alter this entitlement, but in the*

absence of a power to arrest, or to detain in order to search, the person is free to leave at will and cannot be compelled to remain with the officer.

- 1A *In paragraphs 1.1 and 2.2, “relevant protected characteristic” means: age, disability, gender reassignment, pregnancy and maternity, race, religion/belief, sex and sexual orientation.*
- 2 *In some circumstances preparatory questioning may be unnecessary, but in general a brief conversation or exchange will be desirable not only as a means of avoiding unsuccessful searches, but to explain the grounds for the stop/search, to gain co-operation and reduce any tension there might be surrounding the stop/search.*
- 3 *Where a person is lawfully detained for the purpose of a search, but no search in the event takes place, the detention will not thereby have been rendered unlawful.*
- 4 *Many people customarily cover their heads or faces for religious reasons - for example, Muslim women, Sikh men, Sikh or Hindu women, or Rastafarian men or women. Where there may be religious sensitivities about ordering the removal of such an item, the officer should permit the item to be removed out of public view. Where practicable, the item should be removed in the presence of an officer of the same sex as the person and out of sight of anyone of the opposite sex (see Code C Annex L).*
- 5 *A search of a person in public should be completed as soon as possible.*
- 6 *A person may be detained under a stop and search power at a place other than where the person was first detained, only if that place, be it a police station or elsewhere, is nearby. Such a place should be located within a reasonable travelling distance using whatever mode of travel (on foot or by car) is appropriate. This applies to all searches under stop and search powers, whether or not they involve the removal of clothing or exposure of intimate parts of the body (see paragraphs 3.6 and 3.7) or take place in or out of public view. It means, for example, that a search under the stop and search power in section 23 of the Misuse of Drugs Act 1976 which involves the compulsory removal of more than a person’s outer coat, jacket, headgear or gloves cannot be carried out unless a place which is both nearby the place they were first detained and out of public view, is available. If a search involves exposure of intimate parts of the body and a police station is not nearby, particular care must be taken to ensure that the location is suitable in that it enables the search to be conducted in accordance with the requirements of paragraph 11 of Annex A to Code C.*
- 7 *A search in the street itself should be regarded as being in public for the purposes of paragraphs 3.6 and 3.7 above, even though it may be empty at the time a search begins. Although there is no power to require a person to do so, there is nothing to prevent an officer from asking a person voluntarily to remove more than an outer coat, jacket, headgear or gloves in public.*
- 8 *Not used.*
- 9 *Other means of identification might include jewellery, insignias, tattoos or other features which may also identify members of the particular gang or group.*

3 Conduct of searches

- 3.1 All stops and searches must be carried out with courtesy, consideration and respect for the person concerned. This has a significant impact on public confidence in the police. Every reasonable effort must be made to minimise the embarrassment that a person being searched may experience. (See *Note 4*.)
- 3.2 The co-operation of the person to be searched must be sought in every case, even if the person initially objects to the search. A forcible search may be made only if it has been established that the person is unwilling to co-operate or resists. Reasonable force may be used as a last resort if necessary to conduct a search or to detain a person or vehicle for the purposes of a search.
- 3.3 The length of time for which a person or vehicle may be detained must be reasonable and kept to a minimum. Where the exercise of the power requires reasonable suspicion, the thoroughness and extent of a search must depend on what is suspected of being carried, and by whom. If the suspicion relates to a particular article which is seen to be slipped into a person's pocket, then, in the absence of other grounds for suspicion or an opportunity for the article to be moved elsewhere, the search must be confined to that pocket. In the case of a small article which can readily be concealed, such as a drug, and which might be concealed anywhere on the person, a more extensive search may be necessary. In the case of searches mentioned in paragraph 2.1(b) and (d), which do not require reasonable grounds for suspicion, officers may make any reasonable search to look for items for which they are empowered to search. (See *Note 5*.)
- 3.4 The search must be carried out at or near the place where the person or vehicle was first detained. (See *Note 6*.)
- 3.5 There is no power to require a person to remove any clothing in public other than an outer coat, jacket, headgear or gloves. (See *Notes 4 and 6*.) A search in public of a person's clothing which has not been removed must be restricted to superficial examination of outer garments. This does not, however, prevent an officer from placing his or her hand inside the pockets of the outer clothing, or feeling round the inside of collars, socks and shoes if this is reasonably necessary in the circumstances to look for the object of the search or to remove and examine any item reasonably suspected to be the object of the search. For the same reasons, a person's hair may also be searched in public. (See *paragraphs 3.1 and 3.3*.)
- 3.6 Where on reasonable grounds it is considered necessary to conduct a more thorough search (e.g. by requiring a person to take off a T-shirt), this must be done out of public view, for example, in a police van unless paragraph 3.7 applies, or police station if there is one nearby (see *Note 6*.) Any search involving the removal of more than an outer coat, jacket, gloves, headgear or footwear, or any other item concealing identity, may only be made by an officer of the same sex as the person searched and may not be made in the presence of anyone of the opposite sex unless the person being searched specifically requests it. (See *Code C Annex L and Notes 4 and 7*.)

- 3.7 Searches involving exposure of intimate parts of the body must not be conducted as a routine extension of a less thorough search, simply because nothing is found in the course of the initial search. Searches involving exposure of intimate parts of the body may be carried out only at a nearby police station or other nearby location which is out of public view (but not a police vehicle. These searches must be conducted in accordance with paragraph 11 of Annex A to Code C except that an intimate search mentioned in paragraph 11(f) of Annex A to Code C may not be authorised or carried out under any stop and search powers. The other provisions of Code C do not apply to the conduct and recording of searches of persons detained at police stations in the exercise of stop and search powers. (See *Note 7*.)

Steps to be taken prior to a search

- 3.8 Before any search of a detained person or attended vehicle takes place the officer must take reasonable steps, if not in uniform (see *paragraph 3.9*), to show their warrant card to the person to be searched or in charge of the vehicle to be searched and whether or not in uniform, to give that person the following information:
- (a) that they are being detained for the purposes of a search;
 - (b) the officer's name (except in the case of enquiries linked to the investigation of terrorism, or otherwise where the officer reasonably believes that giving their name might put them in danger, in which case a warrant or other identification number shall be given) and the name of the police station to which the officer is attached;
 - (c) the legal search power which is being exercised, and
 - (d) a clear explanation of:
 - (i) the object of the search in terms of the article or articles for which there is a power to search; and
 - (ii) in the case of:
 - ⊙ the power under section 3 of the PPPA (see *paragraph 2.1(b)*), the nature of the power, the authorisation and the fact that it has been given;
 - ⊙ the powers under Schedule 5 to the Anti-Terrorism and Crime Act 2003 (see *paragraph 2.1(e)* and *2.18A*), the nature of the power being exercised.
 - ⊙ all other powers requiring reasonable suspicion (see *paragraph 2.1(a)*), the grounds for that suspicion.
 - (e) that they are entitled to a copy of the record of the search if one is made (see section 4 below) if they ask within 3 months from the date of the search and:
 - (i) if they are not arrested and taken to a police station as a result of the search and it is practicable to make the record on the spot, that

immediately after the search is completed they will be given, if they request, either:

- ⊙ a copy of the record, or
- ⊙ a receipt which explains how they can obtain a copy of the full record or access to an electronic copy of the record, or

- (ii) if they are arrested and taken to a police station as a result of the search, that the record will be made at the station as part of their custody record and they will be given, if they request, a copy of their custody record which includes a record of the search as soon as practicable whilst they are at the station. (See *Note 16.*)

- 3.9 Stops and searches under the power mentioned in paragraph 2.1(b) may be undertaken only by a constable in uniform.
- 3.10 The person should also be given information about police powers to stop and search and the individual's rights in these circumstances.
- 3.11 If the person to be searched, or in charge of a vehicle to be searched, does not appear to understand what is being said, or there is any doubt about the person's ability to understand English, the officer must take reasonable steps to bring information regarding the person's rights and any relevant provisions of this Code to his or her attention. If the person is deaf or cannot understand English and is accompanied by someone, then the officer must try to establish whether that person can interpret or otherwise help the officer to give the required information.

4 Recording requirements

(a) Searches which do not result in an arrest

- 4.1 When an officer carries out a search in the exercise of any power to which this Code applies and the search does not result in the person searched or person in charge of the vehicle searched being arrested and taken to a police station, a record must be made of it, electronically or on paper, unless there are exceptional circumstances which make this wholly impracticable (e.g. in situations involving public disorder or when the recording officer's presence is urgently required elsewhere). If a record is to be made, the officer carrying out the search must make the record on the spot unless this is not practicable, in which case, the officer must make the record as soon as practicable after the search is completed. (See *Note 16.*)
- 4.2 If the record is made at the time, the person who has been searched or who is in charge of the vehicle that has been searched must be asked if they want a copy and if they do, they must be given immediately, either:
- ⊙ a copy of the record, or
 - ⊙ a receipt which explains how they can obtain a copy of the full record or access to an electronic copy of the record.

4.2A An officer is not required to provide a copy of the full record or a receipt at the time if they are called to an incident of higher priority. (See *Note 21*.)

(b) Searches which result in an arrest

4.2B If a search in the exercise of any power to which this Code applies results in a person being arrested and taken to a police station, the officer carrying out the search is responsible for ensuring that a record of the search is made and a copy attached to their custody record. The custody officer must then ensure that the person is asked if they want a copy of the record and if they do, that they are given a copy as soon as practicable.

(See *Note 16*.)

(c) Record of search

4.3 The record of a search must always include the following information:

- (a) A note of the self defined ethnicity, and if different, the ethnicity as perceived by the officer making the search, of the person searched or of the person in charge of the vehicle searched (as the case may be) (see *Note 18*);
- (b) The date, time and place the person or vehicle was searched (see *Note 6*);
- (c) The object of the search in terms of the article or articles for which there is a power to search;
- (d) In the case of:
 - ⊙ the power under section 3 of the PPPA (see *paragraph 2.1(b)*), the nature of the power, the authorisation and the fact that it has been given (see *Note 17*);
 - ⊙ the powers under Schedule 5 to the Anti-Terrorism and Crime Act 2003 (see *paragraphs 2.1(e)* and *2.18A*), the nature of the power, and
 - ⊙ all other powers requiring reasonable suspicion (see *paragraph 2.1(a)*), the grounds for that suspicion.
- (e) subject to paragraph 3.8(b), the identity of the officer carrying out the search. (See *Note 15*.)

4.3A For the purposes of completing the search record, there is no requirement to record the name, address and date of birth of the person searched or the person in charge of a vehicle which is searched and the person is under no obligation to provide this information.

4.4 Nothing in paragraph 4.3 requires the names of police officers to be shown on the search record or any other record required to be made under this code in the case of enquiries linked to the investigation of terrorism or otherwise where an officer reasonably believes that recording names might endanger the officers. In such cases the record must show the officers' warrant or other identification number.

- 4.5 A record is required for each person and each vehicle searched. However, if a person is in a vehicle and both are searched, and the object and grounds of the search are the same, only one record need be completed. If more than one person in a vehicle is searched, separate records for each search of a person must be made. If only a vehicle is searched, the self-defined ethnic background of the person in charge of the vehicle must be recorded, unless the vehicle is unattended.
- 4.6 The record of the grounds for making a search must, briefly but informatively, explain the reason for suspecting the person concerned, by reference to the person's behaviour and/or other circumstances.
- 4.7 Where officers detain an individual with a view to performing a search, but the need to search is eliminated as a result of questioning the person detained, a search should not be carried out and a record is not required. (See *paragraph 2.10* and *Notes 3* and *22A*.)
- 4.8 After searching an unattended vehicle, or anything in or on it, an officer must leave a notice in it (or on it, if things on it have been searched without opening it) recording the fact that it has been searched.
- 4.9 The notice must state where a copy of the record of the search may be obtained and how (if applicable) an electronic copy may be accessed and where any application for compensation should be directed.
- 4.10 The vehicle must if practicable be left secure.
- 4.10A Not used.
- 4.10B Not used.
- (d) Recording of encounters not governed by statutory powers**
- 4.11 Not used
- 4.12 There is no requirement for an officer who requests a person in a public place to account for themselves, i.e. their actions, behaviour, presence in an area or possession of anything, to make any record of the encounter or to give the person a receipt. (See *Notes 22A* and *22B*.)
- 4.12A Not used.
- 4.13 Not used.
- 4.14 Not used.
- 4.15 Not used.
- 4.16 Not used.
- 4.17 Not used.
- 4.18 Not used.
- 4.19 Not used.
- 4.20 Not used.

5 Monitoring and supervising the use of stop and search powers

- 5.1 Supervising officers must monitor the use of stop and search powers and should consider in particular whether there is any evidence that they are being exercised on the basis of stereotyped images or inappropriate generalisations. Supervising officers should satisfy themselves that the practice of officers under their supervision in stopping, searching and recording is fully in accordance with this Code. Supervisors must also examine whether the records reveal any trends or patterns which give cause for concern, and if so take appropriate action to address this.
- 5.2 Senior officers with area or force-wide responsibilities must also monitor the broader use of stop and search powers and, where necessary, take action at the relevant level.
- 5.3 Supervision and monitoring must be supported by the compilation of comprehensive statistical records of stops and searches. Any apparently disproportionate use of the powers by particular officers or groups of officers or in relation to specific sections of the community should be identified and investigated.
- 5.4 In order to promote public confidence in the use of the powers, the police force in consultation with the Department must make arrangements for the records to be scrutinised by the Police Advisory Group, and to explain the use of the powers at a local level. (See *Note 19*.)

Notes for guidance

(a) Authorising officers

- 10 *The powers under section 3 are separate from and additional to the normal stop and search powers which require reasonable grounds to suspect an individual of carrying an offensive weapon (or other article). Their overall purpose is to prevent serious violence and the widespread carrying of weapons which might lead to persons being seriously injured by disarming potential offenders or finding weapons that have been used in circumstances where other powers would not be sufficient. They should not therefore be used to replace or circumvent the normal powers for dealing with routine crime problems.*
- 11 *Authorisations under section 3 require a reasonable belief on the part of the authorising officer. This must have an objective basis, for example: intelligence or relevant information such as a history of antagonism and violence between particular groups; previous incidents of violence at, or connected with, particular events or locations.*
- 12 *It is for the authorising officer to determine the period of time during which the powers mentioned in paragraph 2.1(b) may be exercised. The officer should set the minimum period he or she considers necessary to deal with the risk of violence, the carrying of knives or offensive weapons, or to find dangerous instruments or weapons that have been used. A direction to extend the period authorised under the powers mentioned in paragraph 2.1(b) may be given only once. Thereafter further use of the powers requires a new authorisation.*

13 *It is for the authorising officer to determine the geographical area in which the use of the powers is to be authorised. In doing so the officer may wish to take into account factors such as the nature and venue of the anticipated incident or the incident which has taken place, the number of people who may be in the immediate area of that incident, their access to surrounding areas and the anticipated or actual level of violence. The officer should not set a geographical area which is wider than that he or she believes necessary for the purpose of preventing anticipated violence, the carrying of knives or offensive weapons, or for finding a dangerous instrument or weapon that has been used. It is particularly important to ensure that constables exercising such powers are fully aware of where they may be used. If the area specified is smaller than the Island, the officer giving the authorisation should specify either the streets which form the boundary of the area or a divisional boundary within the force area.*

14 *Not used.*

(b) Recording

15 *Where a stop and search is conducted by more than one officer the identity of all the officers engaged in the search must be recorded on the record. Nothing prevents an officer who is present but not directly involved in searching from completing the record during the course of the encounter.*

16 *When the search results in the person searched or in charge of a vehicle which is searched being arrested, the requirement to make the record of the search as part of the person's custody record does not apply if the person is granted "street bail" after arrest (see section 33A of PPPA) to attend a police station and is not taken in custody to the police station. An arrested person's entitlement to a copy of the search record which is made as part of their custody record does not affect their entitlement to a copy of their custody record or any other provisions of PPPA Code C section 2 (Custody records).*

17 *It is important for monitoring purposes to specify when authority is given for exercising the stop and search power under section 3 of PPPA.*

18 *Officers should record the self-defined ethnicity of every person stopped according to the categories listed in Annex B. The person should be asked to select one of the five main categories representing broad ethnic groups and then a more specific cultural background from within this group. The ethnic classification should be coded for recording purposes using the coding system in Annex B. An additional "Not stated" box is available but should not be offered to respondents explicitly. Officers should be aware and explain to members of the public, especially where concerns are raised, that this information is required to obtain a true picture of stop and search activity and to help improve ethnic monitoring, tackle discriminatory practice, and promote effective use of the powers. If the person gives what appears to the officer to be an "incorrect" answer (e.g. a person who appears to be white states that they are black), the officer should record the response that has been given and then record their own perception of the person's ethnic background by using the PNC classification system. If the "Not stated" category is used the reason for this must be recorded on the form.*

- 19 *Arrangements for public scrutiny of records should take account of the right to confidentiality of those stopped and searched. Anonymised forms and/or statistics generated from records should be the focus of the examinations by members of the public.*
- 20 *Not used.*
- 21 *In situations where it is not practicable to provide a written copy of the record or immediate access to an electronic copy of the record or a receipt of the search at the time (see paragraph 4.2A above), the officer should consider giving the person details of the station which they may attend for a copy of the record. A receipt may take the form of a simple business card which includes sufficient information to locate the record should the person ask for copy, for example, the date and place of the search, and a reference number or the name of the officer who carried out the search (unless paragraph 4.4 applies).*
- 22 *Not used.*
- 22A *Where there are concerns which make it necessary to monitor any local disproportionality, the forces has discretion to direct officers to record the self-defined ethnicity of persons they request to account for themselves in a public place or who they detain with a view to searching but do not search. Guidance should be provided locally and efforts made to minimise the bureaucracy involved. Records should be closely monitored and supervised in line with paragraphs 5.1 to 5.4, and forces can suspend or re-instate recording of these encounters as appropriate.*
- 22B *A person who is asked to account for themselves should, if they request, be given information about how they can report their dissatisfaction about how they have been treated.*
- (c) **Definition of offensive weapon**
- 23 *“Offensive weapon” is defined as “any article made or adapted for use for causing injury to the person, or intended by the person having it with him for such use or by someone else”. There are three categories of offensive weapons: those made for causing injury to the person; those adapted for such a purpose; and those not so made or adapted, but carried with the intention of causing injury to the person. A firearm, as defined by section 32 of the Firearms Act 1947, would fall within the definition of offensive weapon if any of the criteria above apply.*
- 24 *Not used.*
- 25 *Not used.*

ANNEX A – SUMMARY OF MAIN STOP AND SEARCH POWERS TO WHICH CODE A APPLIES

THIS TABLE RELATES TO STOP AND SEARCH POWERS ONLY. INDIVIDUAL STATUTES BELOW MAY CONTAIN OTHER POLICE POWERS OF ENTRY, SEARCH AND SEIZURE

Power	Object of Search	Extent of Search	Where Exercisable
1. Not used.			
2. Firearms Act 1968, s5	Firearms	Persons and vehicles	A public place, or anywhere in the case of reasonable suspicion of offences of carrying firearms with criminal intent or trespassing with firearms
3. Misuse of Drugs Act 1976, s23	Controlled drugs	Persons, vehicles and vessels	Anywhere
4. Customs and Excise Management Act 1986, s170	Goods: (a) chargeable with any duty which has not been paid or secured; (b) in the course of being unlawfully removed from or to any place; (c) otherwise liable to forfeiture under the customs and excise Acts.	Vehicles, vessels or non-airborne aircraft	Anywhere
5. Aviation Security Act 1982, s27(1) (as it has been applied and extended to the Island)	Stolen or unlawfully obtained goods	Airport employees and vehicles carrying airport employees or aircraft or any vehicle in a cargo area whether or not carrying an employee	Any designated airport
6. Police Powers and Procedures Act 1998, s1	Stolen goods; articles for use in certain Theft Act offences; offensive	Persons and vehicles	Where there is public access

	weapons, including bladed or sharply-pointed articles (except folding pocket knives with a bladed cutting edge not exceeding 3 inches).		
7. Not used.			
8. Not used.			
9. Criminal Justice Act 1991, s27C	Offensive weapons, bladed or sharply pointed article	Persons and school premises	School premises
9A. Anti-Terrorism and Crime Act 2003, s32	Anything that may constitute evidence the person being searched is a terrorist.	Persons	Anywhere
10. Game Act 1882, s12	Game or any equipment used to take or kill game	Persons and vehicles	A public place or private grounds
10A. Fisheries Act 2012, s61	Protecting any inland or sea fishery, or for enforcing any fishery legislation	Persons, vehicles and premises	At any reasonable time, enter upon and have free access to the interior of — (i) any premises (other than a dwelling) in which fish is, or is believed to be, sold, or kept or exposed for sale or stored; (ii) any premises (other than a dwelling) in which any instrument or substance intended for the destruction of fish is, or is believed to be,

			kept; (iii) the premises (other than a dwelling) of any person engaged in the business of carrying goods for reward; (iv) any aerodrome, pier, quay, wharf, jetty or dock, or any premises thereon; (v) any aircraft or vehicle of any kind used for the conveyance of goods; or (vi) any hotel, guest house, restaurant or other premises or place at which board and lodging or meals are provided for reward.
11. Not used			
12. Not used			
13. Not used			
14. Wildlife Act 1990, s20	Evidence of wildlife offences under Part 1 of the Act	Persons and vehicles	Anywhere except dwellings
15. Not used.			
16. Not used.			
17. <i>Not used</i>			
18. Paragraphs 3 and 5 of Schedule 7 to the Anti-	Anything relevant to determining if a person being	Persons, vehicles, vessels etc. (<i>Note: These searches are</i>	Ports and airports

Terrorism and Crime Act 2003	examined falls within section 29(1)(b)	<i>subject to any relevant code of practice issued under paragraph 5 of Schedule 12 to the Anti-Terrorism and Crime Act 2003)</i>	
19. Police Powers and Procedure Act 1998, s3	Offensive weapons or dangerous instruments to prevent incidents of serious violence	Persons and vehicles	Anywhere within a locality authorised under subsection (1)
20. Maritime Security Act 1995, s11	Firearms, explosives or any article made or adapted for causing injury to a person or damage to a property.	Ships, property, goods, persons and vehicles.	Harbour area

ANNEX B – SELF-DEFINED ETHNIC CLASSIFICATION CATEGORIES

White W

A. White - British W1

B. White - Irish W2

C. Any other White background W9

Mixed M

D. White and Black Caribbean M1

E. White and Black African M2

F. White and Asian M3

G. Any other Mixed Background M9

Asian / Asian - British A

H. Asian - Indian A1

I. Asian - Pakistani A2

J. Asian - Bangladeshi A3

K. Any other Asian background A9

Black / Black - British B

L. Black - Caribbean B1

M. Black African B2

N. Any other Black background B9

Other O

O. Chinese 01

P. Any other 09

Not Stated NS

ANNEX C – Not used.

ANNEX D – Not used.

ANNEX E – Not used.

ANNEX F – ESTABLISHING GENDER OF PERSONS FOR THE PURPOSE OF SEARCHING

See Code C Annex L

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