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Forensics and Evidence Gathering:

Search powers, procedures and stop and search

Version 2.4

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Authorised Professional Practice

These notes are aimed at learners completing their Initial training to meet the learning outcomes specified on the National Policing Curriculum. The primary source of content is the Authorised Professional Practice (APP) and the supporting evidence based research of "what works" in policing.

APP can be found at: <http://www.app.college.police.uk/>

1. Introduction

These notes are for Pre-Join, Police Officers, PCSOs and IL4SC Phase 2. You should consider how the content applies in relation to PCSO powers, 'any person' powers of arrest under Section 24A of the Police and Criminal Evidence Act 1984 (PACE) and local force policy.

This chapter covers the legislation, powers and procedures for searching individuals, premises, vehicles and open areas and are intended to supplement the available related e-learning packages. It is often during a search that police are alerted to crimes and terrorist activity. Determining whether reasonable grounds and legal authority have been established in order to conduct a lawful search of an individual, vehicle or premises is essential knowledge and this is covered within these notes as well as the systematic search procedures which should be used.

Particular focus is given to Section 1 of the Police and Criminal Evidence Act (PACE) 1984 and the requirements placed on an officer when conducting a lawful stop and search of an individual or a vehicle and the related requirements under Code A of the Codes of Practice to the Police and Criminal Evidence Act 1984. This outlines the essential information which must be given prior to and after the search of an individual and the limitations on where a search can take place. The limits on the extent that someone can be searched are also covered.

There are inextricable links between crime and terrorism and these links are often easily recognised but not identified as such. A number of common themes in the nature of criminality and terrorist activity have involved:

- Fraudulent entry into the UK
- Use of cloned credit cards for fraud
- Sale of cloned credit cards
- Use of cloned cards for clandestine communications
- Use of multiple identities
- Vehicle crime involving high value vehicles.

It is this type of low level criminal activity that you may be required to investigate. You may encounter this type of activity whilst dealing with stop and searches of people and vehicles, whilst searching premises, shoplifters or when dealing with the public as part of a routine

enquiry. The chapter also outlines stop and search powers under the Terrorism Act 2000 and the circumstances where reasonable grounds and legal authority have been established in order to conduct the lawful search of an individual or a vehicle. Searching open areas and links to counter terrorism are also covered.

The effective and lawful searching of premises and the impact of Code B of the Police and Criminal Evidence Act (PACE) 1984 are detailed within these notes. Information is included about searching premises with or without warrants and the process for obtaining warrants.

2. Essential Knowledge Related to Searching

2.1 Factors to consider before conducting a search

The Human Rights Act 1998 gives further effect to rights and freedoms guaranteed under the European Convention on Human Rights. One of those rights is Article 5 - the Right to Liberty and Security.

When you search a person after arrest the person is already under arrest and has therefore already been deprived of their liberty. However, when you search when they are not under arrest you have a power to detain that person for the purpose of conducting the search. Consequently, you are depriving that person of their liberty even though they are not under arrest.

A person can only be deprived of their right to liberty under one of the conditions set out in the permitted grounds in Article 5(1) (a) - (f). In the context of searching an individual, the following conditions are applicable:

- a. The lawful arrest or detention of a person for non-compliance with the lawful order of a court or in order to secure fulfilment of any obligation prescribed by law, and
- b. The lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so.

Any arrest or detention must be lawful. Best practice in policing has always been to follow the same process of asking the following questions:

- Is what I am doing lawful?
- Is what I am doing necessary, and proportionate?
- Am I being professional and accountable in my actions?
- Are my actions open and transparent?

It is these types of questions that underpin the National Decision Model.

Is what I am doing lawful?

One of your primary considerations should be that you have a legal authority to search. This will include gaining sufficient 'reasonable grounds to suspect' or 'reasonable grounds to

believe' if the power that you are using requires this. Your grounds may come from a variety of sources, for example, police intelligence, your own observations or those of a colleague or a witness.

There is no such thing as a 'voluntary search'. You should not search any person unless you have a legal right to do so, no matter how willing they may be to help. Conducting a search without legal authority could amount to an assault; you may also be infringing Article 5 of the European Convention on Human Rights with regards to the right to liberty and security, and Article 8 - the right to respect for private and family life.

A person whose convention rights have allegedly been infringed is entitled to ask "where did you get the power to act as you did?" This is one of the reasons why it is important for anyone exercising policing powers to be able to identify the legal source of any power that they use.

Is what I am doing necessary, and proportionate?

Any interference with a convention right must be shown to have been proportionate to the legitimate aim pursued and necessary in a democratic society. If an officer's actions were shown to have infringed someone's convention rights in a way that was out of proportion to the legitimate aim being pursued, there would almost certainly have been a violation of those rights.

Are my actions open and transparent?

A search may be considered fair and effective where it is justified, lawful and stands up to public scrutiny. The officer carrying out the search must have genuine and objectively reasonable suspicion that they will find a prohibited article or an item for use in crime. The search must be necessary and the most proportionate method an officer could use to establish whether the person has such an item and the person being searched should understand why they have been searched and feel that they have been treated with respect.

2.2 Reasonable grounds

Most powers of search, or powers to enter and search, require you to either have 'reasonable grounds to suspect' or 'reasonable grounds to believe' before you can use the power. Searches are not lawful if they are made in order to obtain reasonable grounds. Reasonable grounds for suspicion is the legal test which a police officer must satisfy before they can stop and detain individuals or vehicles to search them under powers such as section 1 of PACE (to find stolen or prohibited articles) and section 23 of the

Misuse of Drugs Act 1971 (to find controlled drugs). This test must be applied to the particular circumstances in each case and is in two parts:

- (i) *Firstly*, the officer must have formed a *genuine* suspicion in their own mind that they will find the object for which the search power being exercised allows them to search and
- (ii) *Secondly*, the suspicion that the object will be found must be reasonable. This means that there must be an *objective* basis for that suspicion based on facts, information and/or intelligence which are relevant to the likelihood that the object in question will be found, so that a reasonable person would be entitled to reach the same conclusion based on the same facts and information and/or intelligence. (PACE Code of Practice, Code A)

It is important that you remember which of the two levels of reasonable grounds is required for each different search power, and that those grounds exist at that time, for you to lawfully use that power. Reasonable grounds must be based on objective facts.

The level of supporting information and/or intelligence required for 'reasonable grounds to suspect' is lower than the level that would be required for 'reasonable grounds to believe' i.e. a lower level of certainty. Demonstrating 'reasonable grounds for suspecting' or 'reasonable grounds for believing' requires significant attention, partly because there can never be a hard and fast definition of reasonable grounds that will apply to every situation. Reasonable suspicion has been described by a court as being suspicious but uncertain whereas reasonable belief needs to be justified.

If you suspect someone 'on a hunch' that you cannot explain you do not have reasonable grounds. However, a hunch may be the starting point that justifies you keeping people under observation, or speaking to them or to passers-by in order to establish whether or not there are reasonable grounds to search.

In all cases where you require reasonable grounds there must be an objective basis for them, based on facts, information, and/or intelligence relevant to the particular circumstances. For example it is unlawful to discriminate, harass or victimise any person on the grounds of any of the protected characteristics of race, religion or belief, age, sex, sexual orientation or transgender identity. You cannot search someone based on factors such as their ethnicity, age, appearance, or the fact that they are known to have a previous conviction.

Reasonable grounds cannot be based on generalisations or stereotypes for example that certain groups are more likely to be involved in criminal activity. The word 'appearance' is quite different to a description of a person and/or their clothing for example seen running away from a crime scene. You must ask yourself can I articulate my reasonable grounds to the person and in writing in a way that will withstand public or judicial scrutiny?

Factors that may provide reasonable grounds to suspect

Reasonable suspicion should normally be linked to the 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.

If you are trying to discover whether, or by whom an offence has been committed, you can talk to and question anyone who may be able to offer useful information (subject to certain restrictions in Code C Codes of Practice). If reasonable grounds for suspicion emerge during such an encounter, you can detain and search the person, but you cannot detain a person in order to find reasonable grounds for the search.

A person's unwillingness to reply does not alter this entitlement to ask questions, nor do they commit an offence if they decide to not answer your questions. Refusal to answer your questions cannot, on its own, form the basis of your reasonable grounds; you would need other factors. Remember, if you do not have a power of arrest, or a power to detain the person in order to search them with sufficient reasonable grounds, the person is free to leave at will and cannot be compelled to remain with you by force or otherwise.

For all situations, the things that you should be considering to ascertain if you have sufficient reasonable grounds are outlined in the mnemonic **SHACKS**, which is designed to help you to evaluate your reasonable grounds. Any one of these factors may start to give you the reasonable grounds for suspicion. One could be enough, but you will often need a combination to provide reasonable grounds.

Seen	What have you seen, including actions/behaviour?
Heard	What have you heard: conversation, alarms, breaking glass etc?
Actions	What did you do, and what did the person do in response? Did their actions increase or decrease your grounds to search?

Conversation	What did you say to them? What did they say to you? Did their reply increase or decrease your grounds to search?
Knowledge	What is already known about the individual in terms of intelligence, rather than previous convictions? What is the time/location? Is the area a crime hot spot? Has the person been seen or pointed out by a witness? You must be careful not to use a crime hot spot or a time as your grounds, as they in themselves are not valid grounds. However, it may be that the actions of the person(s) at a specific time and location may give rise to suspicions which mean you want to speak to them. Remember having suspicion that means you want to speak to someone or ask them questions is a long way from having legal grounds to search them. Stop search is a power and not a disruptive tactic, you either have grounds to search or you do not.
Smell	Are there any smells that might give rise to the suspicion that drugs may be present? It is extremely important that the smell of cannabis on its own or the indication by a drugs dog or screening knife arch on its own are not taken as reasonable grounds to search. National figures show that the likelihood of finding drugs or weapons based on these sole smells are very low.

When reasonable grounds are not required

There are some search powers where reasonable grounds are not required but these tend to have to be authorised by a higher ranking officer before they can be used. One such power is Section 47A of the Terrorism Act 2000 regarding authorised use of stop and search powers in a specified area or place, for a specified duration to prevent an act of terrorism. Another is Section 60 of the Criminal Justice and Public Order Act 1994 regarding the power to stop and search in anticipation of violence in an authorised locality. You must be aware of the Home Office Best Use of Stop and Search Scheme (BUSSS) to which all Chief Officers have signed up to. It raises the threshold of the burden of proof, raises the rank of the authorising officer (unless in extremis) and reduces the duration an authorisation can last and be extended for.

2.3 Purpose of codes A and B of the PACE codes of practice

Codes of practice include notes for guidance that are not provisions of the codes but are guidance to police officers and others about its application and interpretation.

PACE code A code of practice deals with the exercise by police officers of statutory powers to search a person or a vehicle without first making an arrest. It also deals with the need for a police officer to make a record of the stop and search.

PACE code B codes of practice deals with police powers to search premises and to seize and retain property found on premises and persons.

2.4 Defining the term 'premises'

The meaning of 'premises'

The term 'premises' is used within various different definitions of powers to enter, or enter and search, therefore the meaning of the term is important to remember.

"Premises" is defined in Section 23 of PACE as any place including any:

- vehicle, vessel, aircraft, hovercraft
- offshore installation (such as oil or other drilling rigs, and the accommodation platforms or vessels associated with them)
- renewable energy installation as defined in the Energy Act 2004 Section 104
- tent or moveable structure.

Premises defined as 'any place' would include the places normally associated with premises such as private dwellings and commercial buildings.

2.5 Reasonable force

The following legal provisions allow you to use reasonable force in the lawful execution of your duty:

- Common law
- Section 3 Criminal Law Act 1967
- Section 117 PACE 1984 (to enter premises).

Whilst the law allows you to use reasonable force if necessary (including searching a person who is handcuffed or otherwise restrained) you should try to defuse such a situation first. Remember that your communication skills remain an essential tool to manage potentially aggressive, abusive or non-compliant persons under any circumstances. This is particularly important when conducting a search. The more compliant a person is, the more thorough and effective your search technique will be and the more easily you will be able to safeguard any possible evidence resulting from the search. You will also be able to complete the search more quickly, drawing the minimum amount of attention.

When a person is non-compliant and you are considering using reasonable force to search them, you must consider where your search is taking place, the item(s) that you are searching for and if this is the most appropriate option. This is not a desirable situation and you should do your best to persuade the person to cooperate. You can use reasonable force to search, but only if it has been established that the person is unwilling to cooperate or resists. The disproportionate use of force may amount to a violation of Article 3 of the European Convention of Human Rights, which prohibits torture and inhuman or degrading treatment.

Section 117 of PACE gives the power to use reasonable force, if necessary, to exercise any other power granted under the Act.

This means that you may use such reasonable force to arrest or to gain entry to premises for example if:

- The premises are known to be unoccupied
- The owner or occupier is known to be absent
- Not to do so would frustrate the operation or endanger someone
- The occupier, or other person entitled to grant access, refuses to do so
- It is impossible to contact the occupier or other person entitled to grant access.

Every effort should be made to contact and obtain consent from someone who can give it. It is better for the owner to unlock the premises and admit you than to gain entry by force. The Act states that any force used to gain entry must be reasonable - this is not defined, but clearly means only enough force to gain entry.

If premises have been entered by force, the officer in charge must ensure they are secure before leaving by:

- Arranging for the occupier or their agent to be present
- By any other appropriate means.

Section 3 of the Criminal Law Act 1967 states:

“A person may use such force as is reasonable in the circumstances in the prevention of crime or in effecting or assisting in the lawful arrest of offenders or suspected offenders or of persons unlawfully at large”.

This section is covered in depth as part of the personal safety programme as this allows consideration of the use of force in relation to police equipment such as batons etc. and approved restraints.

Example

You have seen a person passing small wraps of white powder to several individuals in exchange for money. Having intercepted one of these deals and recovered a ‘wrap’ you have arrested the person on suspicion of supplying a controlled drug. You have reasonable grounds to suspect that they have more controlled drugs on their person and intend to search them using your powers under Section 32 PACE 1984 to safeguard evidence of the offence.

The person becomes aggressive and violent towards you and your colleague and you find it necessary to restrain them by handcuffing them. You now have several priorities; ensuring the safety of your colleague, the individual and yourself and safeguarding any further evidence that may be on the individual.

Attempting to search this person in such a resistant and uncooperative manner is going to be difficult; you may also run the risk of losing valuable evidence. If you struggle with the person to pull something out of their pocket, the wraps could get scattered on the pavement, or a bag could split resulting in evidence quickly disappearing or being inhaled. Having risk assessed the situation you decide that the more appropriate course of action is to transport the person back to the police station and conduct the search in a safe environment. By this time the person may also have calmed down and the situation can be defused.

The person in this case is handcuffed so you can ensure that they are monitored during their transportation to the police station to prevent any disposal of connected property and ensure everyone's safety. Remember to check for any connected property inside the police vehicle that they are transported in before and after the journey and make a note of this in your evidence and action or pocket note book.

2.6 Seizure and retention of property

A constable who is lawfully on any premises may seize and retain property in certain circumstances, for example, when searching any premises under any statutory power or with the consent of the occupier.

Under section 19 of PACE 1984 you may seize:

- anything covered by a warrant, and
- anything which you have reasonable grounds for believing is evidence of an offence or
- has been obtained in consequence of the commission of an offence.

An easy way to remember the reasons you can lawfully seize property is by remembering the mnemonic **CLAD**. You can seize items if the seizure is necessary to prevent it being:

Concealed

Lost

Altered

Damaged or destroyed

Under section 22 of PACE 1984 seized property may be retained for specific reasons only. The possible reasons for retention are that the property seized is:

- For use as evidence in a trial (unless a photograph or copy would suffice)
- Forensic examination
- Further investigation
- Establish the lawful owner.

Once the above reasons for retention are no longer valid then seized property can be claimed by its lawful owner. There is also a power to seize property when searching under section 32 of PACE 1984 (see below).

Examples:

- You are lawfully searching a person's bedroom following their arrest on suspicion of theft of a mobile phone when you find five brand new, boxed laptops hidden under a blanket. The laptops all have labels from a local store and you are aware that this particular store has suffered numerous thefts and a burglary recently. You seize the laptops under section 19 of PACE 1984 as you believe they were obtained in the consequence of the commission of an offence of theft or burglary. You seize the laptops, to prevent them being moved and concealed elsewhere or lost, and retain them whilst you establish the lawful owner.
- You continue searching the bedroom as you have not yet searched everywhere where the mobile phone may be hidden. You are looking for a phone of a particular make and model with a name engraved on the back of the case. You open a bedside drawer and seize a mobile phone that has the relevant engraving. You retain the mobile phone as evidence and for forensic examination such as fingerprinting.

2.7 Conducting a search within the limitations of the search power

There is no such thing as a voluntary person search as all searches are recordable. You must not search a person even with their consent if no power to search exists in the first instance. The only exception to this is where search is a condition of entry for example to a sporting event or festival. In those circumstances people have the choice to refuse to be

searched and therefore not enter the location. When searching a person for criminal matters you should always seek their cooperation. They may voluntarily produce the article you are searching for; however, this would still be regarded as a search under PACE and must be recorded.

Limits of searching a person in a public place

Under code A of the PACE 1984 codes of practice there are certain restrictions to searching a person in a public place. Code A relates to powers exercised under Section 1 of PACE 1984 stop and search but similar guidance and restrictions apply to this and other search powers as listed below:

- Section 43 Terrorism Act 2000
- Section 47A Terrorism Act 2000
- Section 23 Misuse of Drugs Act 1971
- Section 139 and 139AA of the Criminal Justice Act 1988
- Section 32 PACE 1984.

Under these restrictions, you can only remove a person's jacket, outer coat or gloves whilst in public view. An easy way to remember what items of clothing you can remove in public is by the mnemonic '**JOG**':

Jacket

Outer coat

Gloves

You cannot search a person's mouth under section 1 of PACE 1984 however you can under section 32.

You can ask the person being searched to voluntarily remove more than their outer coat, jacket or gloves in public, but you must make it clear to them that they are under no obligation to comply.

A search in public of a person's clothing which cannot be removed must be restricted to superficial examination of outer garments. However, this does not prevent you from placing your 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.

Searches conducted out of public view

Only an officer of the same sex as the person being searched can carry out a search involving the removal of more than 'JOG', headgear or footwear, or any other item concealing identity. A search of this type may not be made in the presence of any member of the opposite sex unless the person being searched specifically requests it. There should not be anyone present that does not need to be there.

Where, on reasonable grounds it is considered necessary to conduct a more thorough search beyond the removal of 'JOG', the search must be done out of public view, for example, in a police van or at a police station.

Under section 1 PACE stop and search powers when taking a person to a place out of public view (to remove more than JOG) the place should be located within a reasonable travelling distance using whatever mode of travel (on foot or by car) is appropriate. A street, even if it is empty, does not count as 'out of public view'.

Removal of headgear, face coverings and footwear

Many people customarily cover their heads or faces for religious reasons, for example, Muslim women, Sikh men, Hindu women, or Rastafarian men or women. If you do have reason to ask someone to remove their head or face covering and there may be religious sensitivities about doing so, you should allow the item to be removed out of public view, for example, in a police van or at the police station if this is near by. Where practicable the searching officer should be of the same sex as the person being searched and out of sight of anyone of the opposite sex.

The same applies to removal of hats worn for fashion purposes, or bad weather, and footwear in that you can only remove them during a stop and search under Section 1 of PACE 1984 out of the public view although the person may choose to remove them at the location of the stop and search whilst still in the public view.

This situation is quite different to considering an item worn wholly or mainly for the purpose of concealing their identity; for example, someone who wraps a scarf around their face or puts on a balaclava just before they become involved in a riot. The Criminal Justice and Public Order Act 1994 provides powers to require removal of headgear, facial coverings and footwear in public in specific, authorised circumstances for example the power which allows

a constable in uniform to require the removal of any item which the constable reasonably believes that person is wearing wholly or mainly for the purpose of concealing his identity.

Searches that expose intimate parts of the body

If nothing is found in the course of the initial search, a search involving exposure of intimate parts of the body must not be conducted as a routine extension. Searches involving exposure of intimate parts of the body can only be carried out at a near by police station or another nearby location which is out of public view. They cannot be carried out in a police vehicle.

Any search of a person is intrusive and could potentially cause the person discomfort and/or embarrassment. Every effort should be made to conduct the search as quickly as possible and in an ethical manner that protects the decency of the person. If you have to ask the person to remove clothing that exposes intimate parts of the body, then care should be taken to allow the person to redress and cover that area before another intimate area is exposed. You should consider any vulnerabilities a person may have due to their age, medical condition or mental health. There is a requirement to discuss your actions prior to searching a person when there may be exposure of intimate parts of the body (EIP). APP recommends an ethical discussion is held with a supervisor beforehand and the outcome of that conversation recorded. Some forces have decided that an Inspector's authority is required, so you must check your force policy in relation to this before proceeding with a search to that extent.

Note: A search exposing intimate parts of the body is not the same as an 'intimate search.'

An intimate search consists of a physical examination of a person's body orifices other than the mouth. Intimate searches can only be carried out following strict PACE guidelines and when authorised by an officer of the rank of inspector or above because the authorising officer has reasonable grounds for believing that:

- an article that could cause physical injury to the detained person or others at the police station has been concealed, or
- the detained person has concealed a Class A drug which he or she intended to supply to another or to export, and
- an intimate search is the only means of removing the item (the person must have been arrested and be in police detention).

2.8 When grounds to search cease during a search

You may find that during your search, your grounds for the search cease. It could be that information comes to light that places the reasonable grounds to suspect move onto another person, or even cancels the original suspicions that a possible crime has or may have been committed. Explain this to the person, explain they are no longer being detained and thank them for their cooperation.

Your grounds may also change as a result of the search, as well as the power under which you are conducting the search.

Examples:

You have reasonable grounds to suspect that a person in a public place is in possession of controlled drugs. You start to search them using stop and search powers under Section 23 Misuse of Drugs Act 1971. Whilst conducting the search you find a knife in the person's pocket. You have not yet found anything which you suspect is a controlled drug.

- At this stage you caution the person and, having considered the arrest criteria, you decide it is necessary to arrest the person on suspicion of the offence of having an article with a blade or sharp point in a public place. The search under s.23 of the Misuse of Drugs Act 1971 would continue in full. However, if you have reasonable grounds to believe that the arrested person may present a danger to themselves or others, have concealed on them items to assist their escape or which might be evidence of an offence you now also have the power to search them under Section 32 PACE 1984.
- Your legal authority may change because the person becomes uncooperative to the extent where they become violent and or abusive. Their behaviour may be such that they are committing one or more of a variety of offences, for example, public order, assault or obstructing a police officer. In such a situation you may find it necessary to arrest the person. Your search will now no longer be conducted using a stop search power; instead you will be using a post arrest power of search under Section 32 PACE 1984.
- The suspected controlled drugs falls into both categories, i.e. the original purpose of your stop search and under your post arrest power to search as reasonable grounds to believe that the person has evidence of an offence on them. You may also decide that you have reasonable grounds to believe that they may have other weapons concealed

on their person that could present a danger to themselves or others. It would be best practice at this stage to tell them the grounds for your search and what you are searching for if this has changed. You must however always complete your stop search record as the Police service have committed to being open and transparent and to recording all stop searches carried out in as much detail as possible and to meet the minimum BUSSS data recording standards.

3. Powers to Stop and Search

3.1 Stop and search under Section 1 of PACE 1984

The primary purpose of the powers to search a person before they have been arrested is to enable officers to allay or confirm suspicions about individuals without exercising their power of arrest. Code A of the PACE Codes of Practice governs the exercise by officers of statutory powers to stop and search a person or vehicle without first making an arrest.

Under section 1 of PACE, a constable may detain a person or vehicle, in any place to which the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission; or in any other place to which people have ready access at the time but which is not a dwelling for the purpose of such a search. This allows a constable to search:

- a. any person or vehicle
- b. anything which is in or on a vehicle

for:

- stolen or prohibited articles
- bladed or sharply pointed articles; or
- prohibited fireworks.

Any such article found during a search may be 'seized'.

It is important to understand who and what you can stop and search, and what gives you the grounds to be able to do so before looking at where you can conduct a search and the procedures involved in carrying out such a search. See also the previous section on reasonable grounds.

3.2 Definitions of terms within Section 1 PACE

Police Officer: Any police officer can exercise this power whether in uniform or not, however, the officer must show their warrant card if not in uniform. Only officers in uniform can stop a vehicle. Non-uniformed officers can search vehicles provided the vehicle is already stopped.

Detain: The major difference between detaining a person and arresting them is that detain powers allow an officer to 'hold' people temporarily to carry out a procedure; in this case, a search. When people are arrested they are detained to allow the investigation of an offence.

In certain circumstances you may have reasonable grounds to detain someone intending to search them, but when you speak to them they provide an innocent explanation. In this case the initial detention would have been lawful but, if you continue to detain them following their explanation, the further detention would be unlawful. If your detention for searching is not lawful and reasonable, you may also breach Article 5 of the European Convention on Human Rights - the right to liberty and security.

The intrusion on the liberty of the person stopped or searched must be completed as quickly as possible, and the length of time for which a person or vehicle can be detained must be reasonable and not extend beyond the time taken for the search. If you detain someone for the purposes of a search, you should inform them of their detention as soon as it begins.

Vehicles: Parliament considered it unnecessary to provide a specific definition, stating that "one would know a vehicle when one saw it". Examples would include cars, motorbikes, boats, and aircraft.

Reasonable grounds to suspect: Reasonable grounds for suspicion depend on the individual circumstances, but must be objectively based on facts, information and/or intelligence relevant to the likelihood of finding stolen or prohibited articles, bladed or sharply pointed articles or prohibited fireworks.

You must have genuinely, objective reasonable grounds to suspect before a search can be made as you cannot detain a person in order to find grounds for a search.

3.3 Who and what can be detained for the purpose of a search?

Any person or a vehicle may be detained for the purpose of a Section 1 search, provided you have reasonable grounds to suspect that stolen or prohibited articles, bladed or sharply pointed articles and prohibited fireworks will be found and that the person or the vehicle is in a place defined by the Act. There are no minimum age restrictions, nor is there a requirement that the search is conducted in the presence of an appropriate adult. You must familiarise yourself with the stop search APP regarding dealing with children and young persons and consider any vulnerabilities the person may have. Children and young persons may be demonstrating adult behaviours but their emotional intelligence matures at a different rate to adults and there are many factors that may affect their behavior including peer

pressure, fear or a lack of emotional intelligence. Remember you are the professional adult in the encounter and the person must be treated as a child or young person at all times.

Powers to stop and search must be used fairly, responsibly, with respect for people being searched and without unlawful discrimination. Under the Equality Act 2010, it is unlawful to discriminate on the basis of one of the nine 'protected characteristics' of sex, race, religion or belief, age, disability, sexual orientation, marriage or civil partnership, pregnancy and maternity and gender reassignment.

Items that can be searched for

Item	Description
Stolen articles	The Act does not define 'stolen articles.' A scope of offences relating to stolen goods can be found in the Theft Act 1968, which includes the proceeds of stolen goods.
Prohibited articles	An article is prohibited for the purposes of this Part of this Act if it is: a. an offensive weapon; or b. an article • made or adapted for use in the course of or in connection with an offence to which this sub-paragraph applies (see below) or • intended by the person having it with him for such use by him or by some other person. The offences to which the subsection above applies are: a. Burglary b. Theft c. Offences under section 12 of the Theft Act 1968 (taking motor vehicle or other conveyance without authority) d. Fraud (contrary to section 1 of the Fraud Act 2006); and

	e. Offences under section 1 of the Criminal Damage Act 1971 (destroying or damaging property). These articles are often referred to as articles used for ‘going equipped’ and can cover many things including duplicate keys, a screwdriver or crowbar to gain entry to premises or vehicles, or false identification to gain access to someone’s home in order to commit burglary or theft. Although Section 1 of PACE 1984 defines the types of prohibited articles for which a person or vehicle may be searched it does not make it an offence to possess such articles.
Prohibited fireworks	You may search a person or vehicle for any firework which a person possesses in contravention of a prohibition imposed by the Fireworks Regulations 2004, such as: • possession of an adult firework by a person under 18 years in a public place • possession of a Category 4 firework (fireworks that are incomplete and/or which are not intended for sale to the general public); or • use of an adult firework between the hours of 11pm and 7am (except on 5 November, 31 December, Chinese New Year and Diwali).
Articles with a blade or point	You may search for bladed or sharply pointed articles covered by Section 139 of the Criminal Justice Act 1988, including knives, screwdrivers, chisels or umbrellas with the pointed end sharpened.

Where the search can take place

An officer may exercise the power to stop and search:

- in any place to which at the time when they propose to exercise the power, the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission; or
- in any other place to which people have ready access at the time when they propose to exercise the power but which is not a dwelling.

You can never carry out a Section 1 PACE search in a dwelling. You can search people in the gardens or yards attached to dwellings, but only if you have reasonable grounds for believing that the:

- person to be searched, or person in charge of the vehicle, does not reside in the dwelling; and
- person or vehicle is not at that place with the express or implied permission of a person who resides in the dwelling.

Notice that the Act uses the term reasonable grounds for believing and not reasonable grounds for suspecting here. Reasonable grounds to believe will require a much stronger level of objective facts than 'suspecting'.

Example

You have completed an address check on the individual found in the garden of a dwelling and found that they do not live there, they do not have a key for the house and are saying that they are accidentally locked out; the occupants are away and a neighbour is telling you that they have never seen this person as a family friend or visitor to the address before.

Information a person must be given before a section 1 PACE stop and search

Good communication with the person being searched is crucial. People often feel vulnerable when they do not know or understand what is happening and why. This can lead some people to respond in a defensive or even aggressive manner.

In a great many cases you will probably have some conversation or preparatory questioning with the person before you start to conduct a search. This will be an opportunity to try and build a rapport with the person and hopefully lead to a more cooperative and successful search. Be careful that any such questioning does not stray into the boundaries of an interview. If the person is being hostile, you may need to take a little longer in explaining what you are doing and why. It is your responsibility to conduct searches in a professional manner, even in the most challenging of circumstances. Often it is not the stop and search itself which is the subject of adverse reaction/comment, it is the manner in which the procedure was carried out. You should understand the impact of a negative, unprofessional

and badly conducted stop search has on the image and legitimacy of the Police and how that encounter can affect trust in the Police, resulting in less community intelligence and support. APP has advice relating to procedural justice (treating people with respect and dignity) and you should familiarise yourself with this.

Code A of the PACE Codes of Practice covers the essential information to be given to an individual before they are searched. It does not matter in which order the information is given, so long as it is given clearly to the person who will be searched, or the owner or person in charge of the vehicle that will be searched, before the search begins.

The mnemonic 'GO-WISELY' is designed to help you to remember the points that you need to cover and it may help if you learn this by heart. Before any search of a person or vehicle detained under Section 1 PACE takes place you must take reasonable steps to give the person to be searched, or in charge of the vehicle, the following information:

Grounds for search¹

Object and purpose of search²

Warrant card (if not in uniform or requested)

Identity of officer³

Station to which officer is attached

Entitlement to a copy of the search record⁴

Legal power used

You are detained for the purposes of a search

¹ A clear explanation of your grounds for suspecting possession

² A clear explanation of the object/purpose of the search in terms of the article being searched for

³ Your name and number (in cases involving terrorism or other specific danger to you as an individual you need only give your warrant or collar number)

⁴ A clear explanation of how a copy of the search record can be obtained

The information covered by GO-WISELY is only in relation to the use of stop and search

powers, i.e. those powers where you have detained a person for the purpose of a search before they are arrested. This might seem to be a lot to remember.

The extent to which you can search a person

As detailed earlier in these notes it is important that you always remember that you can only search outer clothing in a public place. Under Section 1 PACE 1984 you cannot require someone to remove any clothing other than their outer coat, jacket or gloves (JOG) in a public place. Hats and shoes are not classed as outer clothing under this section. If you have reasonable grounds to require someone to remove more than JOG, this can be done, but only out of public view. You can use police vehicles for this, if no intimate parts of the person's body will be exposed. You can do the search at a police station but wherever you do the search it must always be carried out 'at or nearby' the place where the person was originally detained.

There is no power to conduct a full intimate search (physical examination of a person's body orifices as defined by PACE), under Section 1 of PACE 1984.

Factors to consider when deciding how far a search will go

How far you search must depend on what you suspect is being carried, and by whom. The smaller the item you are looking for and the less you know about where it is, the further you can search. It is all a question of what is reasonable in each individual situation.

Example

You see a person slip a knife into their pocket. Providing they have not had a chance to move it, and you do not suspect they have anything else on their person, you could only search the pocket where you suspect the knife to be. At this stage you know exactly what you are looking for and where you suspect it is.

However, if the person had been out of your sight, even for a short period, the knife could have been moved anywhere. The least intrusive action would be to make a quick search of any area where it may have been possible to dispose of the knife. If the knife is not located, then your reasonable grounds to suspect that the item is still on the individual originally seen with the knife remain. Under these circumstances you can now search the person wherever the knife could be concealed, but not in places where it would be impossible to conceal it such as a pocket that is too small.

There is no power of arrest under Section 1 PACE for refusing to be searched or resisting a search. Whenever you search someone, compliant or resisting, there are many potential threats to your personal safety. Consider these before you start to search someone and be aware of your local search risk assessments.

3.4 Procedures after completing a lawful stop and search

Completing stop and search documentation

Once you have completed a search you must make a record of the search at the time, electronically or on paper. You must do this unless there are exceptional circumstances which would make this wholly impracticable; for example in cases of serious public disorder or when the searching officer's presence is urgently required elsewhere.

If the record is made at the time the person who has been searched or the person in charge of the vehicle must be asked if they want a copy and either be given one immediately or a receipt that explains how they can obtain a copy.

If a record is not made at the time, you should inform the person searched of their entitlement to a copy of the record if application is made within three months, and to which police station they should apply.

Illegible, incomplete or inaccurate search records may result in allegations of unlawful detention and unlawful searches. As there is an entitlement to a copy of the search record under PACE then you must make sure you complete the search records.

When you give the copy of the search record the Code of Practice states that you should also give the person information on police powers of stop and search and the rights of the public in such situations. Many forces have addressed this by having the information printed on the person's copy. There are local variations between different stop and search forms, and you should ensure you familiarise yourself with the local version that you will be using.

The record must be made on the appropriate form provided for this purpose and must include the following information:

- A note of the person's self-defined ethnic background or (if declined) a description
- When a vehicle is searched, its registration number
- The object or purpose of and grounds for the search (or authorisation)

- The identities of officers involved. In cases involving terrorism or personal danger to yourself or family you are only required to identify yourself by number.

If the person refuses or declines to provide any of their details, the officer should record a description of the person. There is no requirement to record the name, address and date of birth of the person being searched or the person in charge of a vehicle being searched. The Home Office Best Use of Stop and Search Scheme (BUSSS), which all forces have adopted, details the minimum recording requirements. It should be noted that these recording requirements are subject to periodic change and you should be aware of these changes and of local force mandatory recording requirements.

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.

A record is required for each person or vehicle searched. However, if the person is in a vehicle and both are searched, only one record need be completed if the object and the grounds of the search are the same. 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, his/her self-defined ethnic background must be recorded, unless the vehicle is unattended.

You must record the grounds for making a search briefly, but informatively. In the case of Section 1 PACE searches, explain your reasons for suspecting the person concerned by referring to their behaviour and any other circumstances.

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.

If you search an unattended vehicle you must leave a notice in or on it recording the fact that it has been searched, and stating where to get compensation if it is damaged. It should also show the name of the police station to which you are attached and from which station to get a copy of the search record.

Some forces use electronic means to make their record of the search. When an officer makes a record electronically and is unable to produce a copy of the form at the time, the officer must explain how the person can obtain a full copy of the record of the stop and search and give the person a receipt which contains:

- a unique reference number and guidance on how to obtain a full copy of the stop or search

- the name of the officer who carried out the stop or search; and
- the power used to stop and search them.

Self-defined ethnic background

You should record the self-defined ethnicity of every person stopped for a Section 1 PACE 1984 search. If the given ethnicity appears 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 should be recorded.

Code A, Annex B details the procedure for monitoring the ethnicity of the person stopped or searched to the self-defined ethnic background system. This is to provide more accurate statistics as to stop and search activities and make the results compatible with the 2001 census. 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 outlined next to this column. An additional 'not stated' box is available but should not be offered to the person explicitly. You 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, the officer should record the response that has been given, but also record their own perception of the ethnic background of the person stopped and this must be done by using the PNC/Phoenix classification system. If the 'not stated' category is used, the reason for this must be recorded on the form.

White W	Asian - Pakistani A2
White - British W1	Asian - Bangladeshi A3
White - Irish W2	Any other Asian background A9
Any other White background W9	Black B
Mixed M	Black - Caribbean B1
White and Black Caribbean M1	Black - African B2

White and Black African M2

Any other Black background B9

White and Asian M3

Other O

Any other Mixed background M9

Chinese O1

Asian A

Any other O9

Asian - Indian A1

Not Stated NS

3.5 Counter terrorism stop and searches

The Terrorism Act 2000 provides police officers with special powers in relation to the prevention of acts of terrorism.

These powers relate to:

1. Section 43 Stopping and searching people
2. Section 43A Stopping and searching vehicles
3. Section 47A Stopping and searching vehicles and pedestrians in specified locations.

Codes of Practice

The Terrorism Act 2000 (Codes of Practice for the Exercise of Stop and Search Powers) Order 2012 set out the basic principles for the use of powers by police officers under sections 43 and 43A of the Terrorism Act 2000 and the authorisation and use of powers by police officers under section 47A of, and schedule 6B to, the Terrorism Act 2000.

Police officers using the above powers may be required to justify the use 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 counter-terrorism 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.

Proportionate use of the powers can contribute towards the primary purpose of counter-terrorism work which is ensuring the safety of the public.

Search powers under the Terrorism Act 2000 can only be used to prevent, deter, disrupt and identify terrorists based on up-to-date intelligence. The key point here is that any stop and search of people, vehicles, etc. must be based on sufficient and up to date intelligence.

3.6 Stop and search people under Section 43 of the Terrorism Act 2000

Under section 43 of the Terrorism Act 2000 a police officer may stop and search a person they reasonably suspect to be a terrorist, to discover whether that person has in their possession anything which may constitute evidence that they are a terrorist. People who possess multiple identities (as indicated by passports, credit cards, utility bills, cheque books and others) may be engaged in terrorist related activities. Similarly, DVDs, CDs leaflets and other items may point towards affiliation with a particular group.

This power can be exercised at any time, and in any location, when the threshold of reasonable suspicion that the person is a terrorist is met. No specific authorisation from another person is required to use this power.

Reasonable suspicion has the same meaning in relation to the Terrorism Act 2000 as it does within section 1 of PACE. Remember, reasonable grounds for suspicion depend on the circumstances in each case. 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 or previous convictions cannot be used alone or in combination with any other factor as reasonable grounds to stop and search that person. Suspicion that a person is a terrorist may arise from the person's behaviour at or near a location which has been identified as a potential target for terrorists.

The definition of a terrorist includes people who belong to, support or fund raise for a proscribed organisation (i.e. banned organisation). The list of proscribed organisations grows regularly as groups appear to reform under a new name once they have been proscribed. Proscribed organisations are listed in Schedule 2 to the Terrorism Act 2000

Key points to remember:

- The constable does not need to be in uniform
- The constable must be of the same sex as the person who they are searching
- A constable who has the powers of a constable in one part of the UK may exercise a power under this section in any part of the UK.

Limitations of a Section 43 search

The same as in Section 1 PACE a constable cannot require a person being searched to remove any item of clothing in public except JOG:

- A jacket, or
- An outer coat
- Gloves.

This does not give the power to remove headgear or footwear in public.

Procedure before Search

As with a Section 1 PACE 1984 stop and search of a person, the mnemonic GO-WISELY helps you to remember what you must say before searching. You will need to cover these points with the option to give your warrant number instead of your name.

Paragraph 4.4 of Code A of the Codes of Practice to PACE explains that in the case of enquiries linked to the investigation of terrorism, nothing requires the names of police officers to be shown on the search record or any other record, if an officer reasonably believes that recording their names might endanger the officers. However, the record must show the officer's warrant or other identification number and duty station.

Seizure of Articles

A constable may seize and retain anything discovered in the course of a search of a person which he or she reasonably suspects may constitute evidence that the person is a terrorist.

Procedure after search

Follow the same recording requirements as for Section 1 PACE stop and searches, except you must state that the search was under section 43 Terrorism Act 2000 and you may decide not to record your identity/name.

3.7 Stop and search vehicles under Section 43A of the Terrorism Act 2000

Under Section 43A of the Act, a constable may stop and search a vehicle they reasonably suspect is being used for the purposes of terrorism, to discover whether there is anything which may constitute evidence that the vehicle is being used for the purposes of terrorism.

The power to search extends to:

- a. the vehicle
- b. the driver of the vehicle
- c. a passenger in the vehicle
- d. anything in or on the vehicle, or carried by the driver or a passenger.

Section 43A(3) provides a constable the power to seize and retain anything they discover in the course of a search under this section and that they reasonably suspect may constitute evidence that the vehicle is being used for the purposes of terrorism.

3.8 Stop and Search in a specified area under Section 47A of the Terrorism Act 2000

Authorisation

Searches under Section 47A of the Terrorism Act 2000 can only take place when a senior police officer, not below the rank of assistant chief constable (commander in the City of London or Metropolitan Police District), authorises in writing the use of special stop and search powers in a specified area or place.

To authorise use of this power they must reasonably suspect:

1. an act of terrorism will take place
- and
2. reasonably considers the authorisation of powers is necessary to prevent such an act.

The specified area or place must be no greater than is necessary to prevent such an act. The authorisation can cover the whole or specified part of the authorising officer's police area, including internal waters which are not specifically included in a police area such as lakes, reservoirs, rivers and to the low water line at the coast.

Duration of a Section 47A authorisation

Such an authorisation has effect from the time the authorisation is given, but can last no longer than is necessary to prevent such an act. An end time and date will be specified in the authorisation that cannot exceed 14 days from authorisation.

Briefing and tasking

You should be fully briefed on and aware of the differences between searches under Sections 43, 43A and 47A of the Terrorism Act 2000. The powers under Section 47A should only be used by officers who have been briefed about their use and also be reminded that other powers of stop and search may be more appropriate to use.

There may be exceptional circumstances where it is impractical to brief officers before they are deployed. Where this occurs, supervisors should provide you with a briefing as soon as possible after deployment.

Example:

You along with other on duty officers are called to an urgent briefing. Due to intelligence received your chief constable reasonably suspects that, in a small town in your force area, an act of terrorism will take place within the next 24 hours. The intelligence is from a reliable source and gives information about a planned explosive device being planted in the town centre. The chief constable authorises immediate use of section 47A stop and search powers within the boundaries of that town only in that force area.

The briefing is specific about where exactly the boundaries are, what you can and cannot do under section 47A and also reminds you of other stop and search powers that may be more appropriate. The briefing gives you as much detail as possible about the potential threat to public safety in these circumstances and you are instructed which part of the town to patrol.

Using the powers of stop and search under Section 47A of the Terrorism Act 2000

An authorisation given under section 47A authorises any constable in uniform to stop a pedestrian or vehicle (in an area or at a place specified in the authorisation) and to search:

- the pedestrian
- anything carried by the pedestrian

and

- the vehicle
- the driver of the vehicle
- a passenger in the vehicle
- anything in or on the vehicle or carried by the driver or passenger

for evidence that the vehicle is being used for the purposes of terrorism or that any of the individuals are terrorists.

When use of section 47A has been authorised, officers exercising section 47A stop and search powers do not need reasonable grounds to suspect an individual before stopping and

searching them. The powers may be exercised by a constable whether or not the constable has reasonable suspicion that there is such evidence.

Deciding which power to use

If a section 47A authorisation is in place, the powers conferred by that authorisation may be used. However, if there is a reasonable suspicion that a person is a terrorist, then powers requiring reasonable suspicion in section 43 and 43A of the Terrorism Act 2000 should be used as appropriate instead.

Detention for purpose of Section 47A search

When you propose to search a person or vehicle under Section 47A, you may detain the person or vehicle for such time as is reasonably required to permit the search to be carried out at or near the place where the person or vehicle is stopped. Reasonable force may be used to carry out the search only if it has been established that the person is unwilling to cooperate or resists and it is deemed necessary to use force.

Exercising stop and search powers under Section 47A

While it is not necessary to have reasonable suspicion when exercising Section 47A powers, you should have a basis for selecting individuals or vehicles to be stopped and searched. This basis will be either objective factors (based on the intelligence available and in accordance with the briefing) or the selection of individuals or vehicles at random within the parameters set out in the authorisation, for example, stopping vehicles at random travelling down a particular road towards a potential target.

If stops and searches are being conducted on the basis of objective factors, remember you should still consider whether other powers requiring reasonable suspicion are more appropriate. You should only use the powers conferred by a section 47A authorisation if you are satisfied that you cannot meet a threshold of reasonable suspicion sufficient to use other police powers.

Example:

The briefing stated that the intelligence received included that an explosive device was being transported to the town in a van. You are in uniform and go directly to the street you were briefed to patrol and stop and search each van including the people in the van that comes along that road.

You do not need any reasonable suspicion that the vehicle is being used for the purposes of terrorism, or that any of the individuals are terrorists, as the authorisation allows you to stop and search the vehicle, the driver of the vehicle, a passenger in the vehicle and anything in or on the vehicle, or carried by the driver or a passenger.

Searches conducted under section 47A may only be carried out by a constable in uniform and only for the purpose of discovering whether there is anything which may constitute evidence that the vehicle concerned is being used for the purposes of terrorism or (as the case may be) that the person concerned is a person falling within the definition of a terrorist as per section 40(1)(b).

The search can therefore only be carried out to look for anything that would link the vehicle or the person to terrorism.

Power to seize Articles

A constable may seize and retain anything discovered during the course of a search which the constable reasonably suspects may constitute evidence that they are a terrorist.

Selecting an individual or vehicle using indicators

When selecting individuals to be stopped and searched, you should consider the following:

a. Geographical Extent

What are the geographical limits of the authorisation and what are the parameters within which your briefing allows stops and searches to be conducted?

b. Behaviour

Is the person to be stopped and searched acting in a manner that gives cause for concern, or is a vehicle being used in such a manner?

c. Clothing

Could the clothing conceal an article of concern, which may constitute evidence that a person is a terrorist?

d. Carried items

Could an item being carried conceal an article that could constitute evidence that a person is a terrorist or a vehicle is being used for the purposes of terrorism?

e. Selecting individuals 'at random'

What are the geographical and other parameters of the operation as set out in the authorisation?

f. Explanation

You will need to explain to people why they or their vehicles are being searched.

Powers that may be conferred on a PCSO when use of Section 47A is authorised

Paragraph 15 of Schedule 4 of the Police Reform Act 2002 extends some of the special powers of stop and search to designated PCSOs.

Authorising officers may consider whether to include PCSOs within a stop and search authorised under Section 47A. If they are to use the powers available, they should be properly briefed on the limitations of their powers as well as on the appropriate use of those powers.

When a PCSO on duty and in uniform has been conferred powers under section 47A Terrorism Act 2000:

- a. that person shall, in any authorised area within the relevant police area, have all the powers of a constable in uniform by virtue of section 47A(2)(a) and (d), (3)(b) and (6) of the Terrorism Act 2000:
 - i. to stop and search vehicles
 - ii. to search anything in or on a vehicle or anything carried by the driver of a vehicle or any passenger in a vehicle
 - iii. to search anything carried by a pedestrian.

PCSOs may seize and retain anything which is discovered in the course of such a search carried out by him/her or a constable, that he or she reasonably suspects may constitute evidence that the vehicle concerned is being used for the purposes of terrorism or (as the case may be) that the person concerned is a terrorist.

However, when exercising any of the powers, he or she must:

- be in the company of
- and
- be under the supervision of a police constable.

PCSOs must also comply with the same recording requirements as a police officer.

Record of a Section 47A Terrorism Act search

Where an officer reasonably believes that recording their names might endanger the officers, they are not required to show names on the search record or any other record. However, the record must show the officer's warrant or other identification number and duty station.

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. You may remind a person that providing these details will ensure that the police force is able to provide information about the stop and search in future should the person request that information or if it otherwise required.

A record is required for each person and each vehicle searched. However, only one record need be completed if a person is in a vehicle and both are searched and the object and grounds of the search are the same. 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 group of the person in charge of the vehicle must be recorded, unless the vehicle is unattended.

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. The notice must include the name of the police station to which the officer concerned is attached and 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. The vehicle must if practicable be left secure.

Recording Requirements - Section 47A searches which do not result in an arrest

When you carry out a section 47A search which does not result in the arrest and transport to a police station of the person searched (or the person in charge of the vehicle searched), a record must be made of it at the time, either electronically or on paper, unless there are circumstances which make this wholly impracticable due to being called to an incident of higher priority.

If a record is not made at the time of the stop and search, you must make the record as soon as practicable after the search is completed. There may be situations where it is not

practicable to obtain the information necessary to complete a record, but you should make every reasonable effort to do so. If it is not possible to complete a record in full, you must make every reasonable effort to at least record details of the date, time and place where the stop and search took place, the power under which it was carried out and your identification number.

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 of the record. 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.

Remember, you are not required to provide a copy of the full record or a receipt at the time if called to an incident of higher priority. In those situations you should give the person details of the police station at which they may request a copy of the record.

Recording Requirements - Section 47A searches which result in an arrest

If a search conducted under section 47A results in a person being arrested and taken to a police station, the officer who carried out the search is responsible for ensuring that a record of the search is made as part of their custody record.

4. Powers to Enter and Search

The powers to enter premises, search and seize under PACE 1984

Police powers to enter and search premises and seize property are enabled from several sources, but can generally be broken into two types: the powers of entry search and seizure powers without warrant and search and seizure under warrant. The core legislation behind both of these is part of the Police and Criminal Evidence Act 1984 (PACE) and the associated Code B PACE code of practice.

Code B (paragraph 1.1) deals with police powers to:

- Search premises and
- Seize and retain property found on premises and persons.

The powers under Code B (paragraph 1.1A) relate to:

- Property and material relating to a crime
- Wanted persons
- Children who abscond from local authority accommodation where they have been remanded or committed by a court.

The legal power to conduct a search of premises can be obtained in three ways:

- a. Under the Police and Criminal Evidence Act 1984 (PACE) there are powers to enter and search premises without a warrant:
 - to make an arrest (Section 17)
 - after an arrest (Sections 18 and 32).
 - a. With the consent of the owner/occupier.
 - b. A justice of the peace may issue a search warrant granting powers of entry, search and seizure, e.g. a warrant to search for stolen property, drugs, firearms or evidence of serious offences.

When considering a search, always remember that the right to respect for private and family life and respect for peaceful enjoyment of personal property and possessions are key

principles of the European Convention on Human Rights Act. Powers of entry, search and seizure should be fully and clearly justified before use.

You must consult a member of the neighbourhood policing team before a search which might have an adverse effect on police/community relations takes place, unless it is an emergency. In the case of an emergency, the neighbourhood policing team should be informed of the search as soon as possible afterwards.

PACE Code B (paragraph 1.4) requires police to:

- Exercise their powers courteously and with respect for persons and property
- Only use reasonable force when this is considered necessary and proportionate to the circumstances.

If the provisions of PACE, and Code B, are not observed, evidence obtained from a search may be open to question.

If it becomes necessary during a premises search to search an individual who has not been arrested, then that search must be carried out under Code A.

Powers to enter and search premises without a warrant

These powers to enter and search premises without a warrant are used on a regular basis by frontline operational police officers and therefore are of particular importance to learners.

4.1 Section 17 PACE 1984 enter and search to make an arrest etc.

Under section 17 of PACE, a police constable (in uniform) may enter premises without a warrant to:

- execute a warrant of arrest issued by a court (for example on someone who has failed to answer a summons)
- execute a commitment warrant (a warrant issued by a court for non payment of a fine)
- arrest someone without a warrant for an indictable offence, e.g. theft
- arrest someone without a warrant in respect of certain, specific, offences:
 - a. Public Order Act 1936 section 1 (Prohibited Uniforms)
 - b. Criminal Law Act 1977 sections 6-8 or 10 (Entering or Remaining on Property)
 - c. Public Order Act 1986 section 4 (Fear or Provocation of Violence)

- d. Criminal Justice and Public Order Act 1994 section 76 (Failure to Comply with an Interim Possession Order)
 - e. Road Traffic Act 1988 section 163 (failure to stop)
 - f. Road Traffic Act 1988 section 4 (Driving under the Influence of Drink or Drugs)
 - g. Transport and Works Act 1993 section 27 (Drink and Drugs Offences by Transport Workers)
 - h. Animal Welfare Act 2006 sections 4, 5, 6(1) and (2), 7 and 8(1) and (2) and Animal Health Act 1981 section 81 (Animal Welfare)
 - i. Legal Aid, Sentencing and Punishment of Offenders Act 2012 section 144 of the (squatting in a residential building)
- arrest a young person or child who has been remanded to local authority accommodation or youth detention accommodation (Children and Young Persons Act 1969 section 32(1A))
 - recapture an escaped person or someone who is unlawfully at large and whom the officer is pursuing. This may be a person who escapes after having been arrested by the police but has not yet been charged, by a person awaiting trial or sentence or by a person serving a sentence
 - recapture anyone whom you are pursuing as he/she is unlawfully at large
 - saving life or limb or preventing serious damage to property (see more info below).

In order to exercise this power of entry under any of the above circumstances, you must have reasonable grounds to believe that the person whom you will arrest or recapture is on the premises that you want to enter.

Examples:

- You see the person you are seeking enter premises and they have had no opportunity to leave unobserved.
- You knock at the door and the person you are seeking answers the door or looks out of a window.

The power to search under section 17 is only to the extent that it is necessary to discover the

person to be arrested. Also if the building is divided into separate dwellings, e.g. a house into flats, you may only enter the flat where you believe the person you are seeking may be and any common parts.

Examples:

- You may open a cupboard or wardrobe large enough to contain a person, but may not open a drawer because the person you are seeking could not be within.
- You attend a block of flats to arrest a person at number 8 on suspicion of burglary. On entering number 8 you are informed that it is a shared flat with three tenants, each of whom have their own bedroom. Under section 17 you could search the suspect's own bedroom only, the shared hallway, kitchen and bathroom. You can also enter and search all the shared or common parts of the main building if necessary such as the hallways, stairs and rubbish store.

Saving life, preventing injury or preventing serious damage to property: Under section 17(1)(e) you may also enter premises for the purpose of saving life, preventing injury or preventing serious damage to property. For example you may enter any premises to rescue someone or enter a top floor flat to turn the water off (if a pipe had burst) to prevent serious flooding of the whole building. It is important to note that you only require reasonable grounds to suspect someone is on the premises in order to enter to save life and limb. This power may also be conferred on designated officers such as PCSOs.

Example:

- A neighbour speaks to an older resident regularly. The neighbour calls the police as they are concerned about the resident as there is no response to their knock on the door, the curtains have been closed for at least 48 hours and the person is usually active and answers the door to callers. The neighbour states the resident had no plans to go away and last time they spoke the resident complained of feeling a bit ill. There is no response when the police officer knocks loudly and shouts through the letter box so the officer forces entry under section 17 (to save life and limb) as they suspect the resident may be in need of medical care and attention.
- An officer forces entry to a house following a report of a baby and young child being left alone for hours. Neighbours report the children had been heard to be

crying and screaming up until 20 minutes ago but had suddenly gone quiet. They report that no adult had returned to the house and the officer could not get an answer or response to knocking on the door. The officer looks through a window and sees a small child eating what appeared to be tablets from a prescription pack.

Note: There is also a power of entry under Common Law that can be exercised to deal with or prevent a breach of the peace. There must be an actual or apprehended breach of the peace and that the officer exercising this power must have a genuine belief that there is a real and immediate risk of a breach of the peace occurring and they must act with great care and discretion.

4.2 Section 32 PACE 1984 search a person under arrest

There is also a power to search a person under arrest under Section 32 PACE 1984 where they may present a danger to themselves or others or have concealed on them items to assist their escape or which might be evidence of an offence.

A constable may search an arrested person in any case where the person to be searched has been arrested at a place other than a police station if the constable has reasonable grounds for believing that the arrested person may present a danger to themselves or others.

This power allows a constable to search the arrested person for anything that may be concealed on them which might assist them to escape from lawful custody or which might be evidence relating to an offence. The power to search the person is only to the extent reasonably required to discover any such thing or evidence and can only require removal of a jacket, outer coat and gloves (JOG) in a public place.

Note: This power allows a constable to also search the person's mouth (unlike section 1 of PACE which does not).

If the offence for which the person has been arrested is an indictable offence then section 32 also gives certain powers of entry and search (see below).

4.3 Section 32 PACE 1984 enter and search the place of arrest or the place immediately before arrest

In some circumstances, you may have cause to believe that evidence will be found on premises where a person is at the time of arrest or was immediately before the arrest. Section 32(2)(b) of PACE provides a power to enter and search such premises following an arrest for an indictable offence.

If you have reasonable grounds for believing that there is evidence on premises where the arrested person was when arrested or immediately before he or she was arrested, you may enter and search the premises for evidence relating to the offence.

The power to enter and search can only be used:

- when the person has been arrested for an indictable offence (indictable includes triable either way and indictable only offences)
- when you have reasonable grounds to believe there is evidence on the premises, and
- the person was arrested on those premises or was at those premises immediately before arrest, and
- if the search is for evidence relating to the offence for which he or she was arrested.

Example

- On patrol you see a man walk along a line of parked cars looking inside each one. At one car he stops, looks round, and opens the door. He takes some bags from the inside, opens the boot and takes out some parcels. He crosses the road, goes to another car, opens this one with a remote fob and puts all the articles in the boot. As he gets into the vehicle's driver's seat you arrest him on suspicion of theft.
- Under PACE, the man's car is defined as being premises. You therefore have a right of entry and search under section 32 as he is under arrest and was in the vehicle at the time of arrest. He also has control of the premises. You may also search for evidence relating to the arrest as you have seen him put what appear to be stolen articles in the boot.
- You are on patrol looking for a known person who is suspected to have just stolen a TV from a local electrical goods store. You have been given the name via your radio of a local prolific offender and the description of the clothing they were wearing five minutes ago in the store. You see (and recognise) the named person leaving a house wearing clothing that matches the description given by the store. You arrest the person on suspicion of theft of a TV. The house the suspected thief has just left is the home of their friend.
- You have the power to enter and search the friend's house under section 32 PACE as the suspect was at those premises immediately before arrest to search for the TV that was stolen from the store. You have been given the make, model and identifying serial number of the TV.

4.4 Section 18 PACE 1984 enter and search premises occupied or controlled by person under arrest

Section 18 PACE covers the power to enter and search premises occupied or controlled by a person under arrest for an indictable offence if there are reasonable grounds for suspecting that there is evidence that relates to that, or another, indictable offence which is connected or similar to that offence. A constable may seize and retain anything that fits the criteria.

Items that are subject to legal privilege are not included. These may be, for example, communications between a professional legal advisor and client or items in connection with legal advice.

The written authority of an inspector or above is needed and the written authority for the search must be entered on the search form that must be in the possession of the officer conducting the search.

The entry and search may be carried out without such permission, and before taking a suspect to a police station, if the presence of the person at a place is necessary for the effective investigation of the offence. Similarly, entry for a search may take place before releasing an arrested person on street bail. In both instances an inspector must be informed that the entry and search has taken place as soon as practicable.

The power of search is restricted to evidence relating to the offence for which the person was arrested, or another indictable offence which is similar or connected - for example if the detainee has been arrested for burglary, then items relating to any acquisitional crime may be searched for and seized. Moreover, the extent of the search is restricted to that which is reasonably required to discover whatever is being sought. So, if searching for a stolen television it would not be reasonable to look inside a cutlery drawer.

Once whatever is being sought is found, the search should be discontinued, unless there are reasonable grounds for suspecting that there are more to be found. The power extends to search premises controlled as well as occupied, if there are reasonable grounds to do so.

Example

- You have arrested a person for handling stolen goods and have obtained an inspector's authority to search their home for stolen goods. The arrested person stated they were unemployed on arrival at the custody suite. During the course of the search of their home, a lease agreement for a lock up garage is found, in the name of the occupier (i.e. the detained person) of the premises being searched and the suspect is questioned about it. The person denies knowledge of the lock up garage's existence therefore, on the face of it, there are reasonable grounds to suspect that there may be evidence, i.e. further stolen goods, in the garage. This person appears to be in control of the lock up garage as their name is on the lease and you therefore request authority to enter and search the garage under PACE section 18. If the detainee refuses to provide a key, you may use reasonable force to enter.

4.5 Powers to enter, search and seize documents to establish nationality

The UK Borders Act 2007 provides a constable (and immigration officers) with the power to enter and search premises following arrest for documents that establish the individual's nationality.

Previously, police powers were focused primarily on gathering evidence of an offence and a constable did not have the powers to search for and seize documents that establish identity, nationality or citizenship like immigration officers have power to do. Therefore where an individual who was lawfully in the UK was arrested for a non-immigration offence a constable would be powerless to search for documents that enabled them to prove the suspect's nationality. A constable now has the ability to identify the nationality of an individual at the outset of the criminal justice process, increasing the ability for them to be deported from the UK.

Entry without warrant - Section 44 of the UK Borders Act 2007

Provides a constable (and immigration officers) with the power to enter and search premises without warrant following arrest where it is suspected that:

- the individual is not a British citizen, and
- nationality documents relating to the individual may be found on:
 - premises occupied or controlled by the individual
 - premises on which the individual was arrested
 - premises where the individual was immediately before their arrest.

Nationality documents are defined as a document showing:

- the individual's identity, nationality or citizenship
- the place from which the person travelled to the UK, or
- a place to which the individual is proposing to go to from the UK.

In summary, the power can be used:

- where an individual is known to the police but their claimed nationality has not been proven

- if the police cannot ascertain that the suspect is the person (and thereby the nationality) that they claim to be
- where police are searching premises under PACE powers
- only where properly authorised, in accordance with the legislation.

The powers may only be exercised with prior written authorisation from an officer of at least the rank of inspector (or, for immigration officers, a chief immigration officer) and the authorising officer must record the grounds for suspicion and the nature of the documents sought.

Before a search is instigated, enquiries should be made with UK Borders Agency (UKBA) to check whether the individual is already known and documented.

The powers may not be exercised once the individual has been released without charge.

Entry under warrant - Section 45 of the UK Borders Act 2007

The power to enter and search other premises requires a warrant from a justice of the peace. Such a warrant will only be issued if the person has been arrested and not released without charge and the justice of the peace must be satisfied that there are reasonable grounds for believing that:

- the person may not be a British citizen
- nationality documents may be found on the premises, and
- at least one of the following conditions apply:
 - it is not practicable to communicate with any person entitled to grant entry to the premises
 - it is practicable to communicate with a person entitled to grant entry to the premises but it is not practicable to communicate with any person entitled to grant access to the nationality documents
 - entry to the premises will not be granted unless a warrant is produced
 - the purpose of a search may be frustrated or seriously prejudiced unless an immigration officer or constable arriving at the premises can secure immediate entry.

Seizure and retention - Section 46 of the UK Borders Act 2007

With the exception of legally privileged material, a constable (and immigration officers) may seize any document which the officer thinks is a nationality document and retain it while they suspect that the individual may be liable to removal from the UK and retention of the document may facilitate their removal.

Material which is classed as legally privileged (as defined by S. 412 of the Proceeds of Crime Act 2002) has protection in legal proceedings from disclosure, by virtue of any rule of law relating to the confidentiality of communications. Items subject to legal privilege are:

- communications between a professional legal adviser and his client, or
- communications made in connection with or in contemplation of legal proceedings and for the purposes of those proceedings.

4.6 Entering premises to search by consent

Search with Consent

If there is no legal authority for a search, i.e. power under PACE, no warrant or other legislation, a search of premises may still be made if the owner or occupier gives consent for it to be carried out.

Examples

- A factory owner may give consent for the factory premises to be searched for a missing person.
- The occupant of a flat may give consent to search for something that may have been left by a previous occupier.

PACE Code of Practice code B set out the procedure to be followed when a search by consent takes place. To summarise:

- The consent must be given in writing by a person entitled to do so (owner, occupier etc.) on the Notice of Powers and Rights form.
- The officer in charge of the search must inform the person giving consent:
 - Their identity and the identity of those with them

- Why they want permission to enter, e.g. to search for a person or object
- The occupier must be told that he or she is not obliged to consent, and can withdraw consent at any time
- The occupier must be informed whether he or she is a suspect
- That anything seized may be produced in evidence.

The occupier's consent must be given freely and without pressure. If it is given under duress, any subsequent action (e.g. a search) would be unlawful. Similarly, if consent is withdrawn at a later stage, any continuing action would be illegal.

It is not sufficient to gain consent from the landlord of a premises. The tenant, occupier or lodger must give consent where it is possible to obtain it and every reasonable effort should be made to do so. If the premises are unoccupied, or the occupier can not be contacted, the landlord's consent may be sufficient.

However it is unnecessary to seek consent for a search if this would cause disproportionate inconvenience to the person concerned when it would be reasonable to assume that innocent occupiers would agree to and actively support police to search.

Examples

- If a suspect has fled the scene of a crime or has otherwise evaded arrest and it is necessary to check surrounding gardens and unsecured, readily accessible places in order to establish if the offender is hiding nearby.
- If police have arrested someone at night following a pursuit and wish to check gardens etc. along the route the offender took to see if any property or evidence had been discarded.

4.7 Proceeds of Crime Act 2002

Section 289 Proceeds of Crime Act 2002

Using the Proceeds of Crime Act powers during the normal course of your work can help to establish credible evidence against those actively involved in criminality and cause disruption to criminal activities.

Section 289 of Proceeds of Crime Act 2002 permits you to search for cash if you are on any premises lawfully, for example where you are executing a search warrant or Section 18 search with an inspector's authority under PACE 1984 if you have reasonable grounds for suspecting that there is on the premises cash:

- which is recoverable property or is intended by any person for use in unlawful conduct, and
- the amount of which is not less than the minimum amount.

Definitions

Cash	For the purposes of the Act (see section 289 (6)) cash means: • notes and coins in any currency • postal orders • cheques of any kind, including travellers' cheques • bankers' drafts • bearer bonds and bearer shares (must be found in the United Kingdom).
Recoverable Property*	This means property that has been obtained through any unlawful conduct. However, if such property has been disposed of, since it was so obtained, it is recoverable property only if it is held by a person into whose hands it may be followed, for example the dishonest handler of stolen property. *Note: Section 304-310 of the Proceeds of Crime Act 2002 provides the full definition.
Minimum Amount	1. In this chapter, the minimum amount is the amount in sterling specified in an order made by the Secretary of State after consultation with the Scottish Ministers.

	2. For that purpose the amount of any cash held in a currency other than sterling must be taken to be its sterling equivalent, calculated in accordance with the prevailing rate of exchange.
Seizure of cash	Section 294 of the Act provides a customs officer or constable the power to seize any cash if they have reasonable grounds for suspecting that it is: a. recoverable property, or b. intended by any person for use in unlawful conduct. They may also seize cash of which they have reasonable grounds to suspect that part of it is: c. recoverable property, or d. intended by any person for use in unlawful conduct, if it is not practicable to seize only that part. The amount of cash in question must not be less than the minimum amount. Any cash seized under Section 294 may be detained for an initial period of 48 hours.
Items which may assist in verifying the wealth, criminal finances and movement of suspects	When searching premises under the Proceeds of Crime Act 2002, you should also make sure that you look for any financial clues that may assist you in verifying the wealth, criminal finances and movement of suspects. Examples of such material might be: • cheque books • receipts • bank paying in books • evidence of an extravagant lifestyle

	• documentation about travel arrangements e.g. ticket confirmations. The above is not a comprehensive list but gives an indication of the type of material that could provide the necessary evidence of criminality. Inform your Force Financial Investigation Unit of the outcome of any search where property has been seized under the Proceeds of Crime Act. They will then investigate with a view to providing the required evidence to support confiscation of the proceeds.
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The power to search persons under Proceeds of Crime Act 2002

Section 289(2) and (3) of Proceeds of Crime Act 2002 extend the power of search, for a customs officer, financial investigator or a constable, to the searching of persons. It states:

If a customs officer or constable or accredited financial investigator has reasonable grounds for suspecting that a person is carrying cash which is recoverable property or is intended by any person for use in unlawful conduct, and the amount is not less than the minimum amount, they may, so far they think it necessary or expedient, require the suspect to permit a search of any article he has with him and/or permit a search of his person.

You may detain a vehicle or the person for as long as is necessary for the search to be conducted.

Limitations

A search of the person is subject to the same requirements of Section 1 PACE 1984 searches. The purpose of the search is limited to finding cash.

The section does not require a person to submit to an intimate or strip search*.

***NOTE:** This is within the meaning of Section 164 of the Customs and Excise Management Act 1979; rather than the usual meaning within PACE.

The powers under Proceeds of Crime Act section 289 may only be exercised with appropriate prior approval from a justice of the peace or a senior officer (the rank of

inspector or above) unless, in the circumstances, it is not practicable to obtain that approval before exercising the power.

You should also refer to the Code of Practice issued under Section 292 of the Proceeds of Crime Act 2002 as this provides more detail on the exercise of the power.

Report writing requirements of Section 290 of the Proceeds of Crime Act 2002

Section 290 of the Proceeds of Crime Act 2002 requires constables to take further action if the search was not authorised by a judicial officer **and either** no cash is seized **or** any seized cash is not kept for more than 48 hours.

The report writing requirements of section 290 are set out below:

If the powers are exercised without the approval of a judicial officer in a case where:

- a. no cash is seized by virtue of Section 294, or
- b. any cash so seized is not detained for more than 48 hours, the customs officer or constable who exercised the powers must give a written report to the appointed person.

The report must give particulars of the circumstances which led him to believe that:

- c. the powers were exercisable, and
- d. it was not practicable to obtain the approval of a judicial officer.

4.8 Warrants giving authority to enter and search premises

A warrant is a written authority issued by a magistrate or a judge that directs the person or persons to whom it is addressed to carry out a specific action which is set out in the warrant. There are various circumstances where a constable can apply for a warrant to enter and search premises. This may be considered where other powers are not suitable in the circumstances and you should seek advice from a sergeant or inspector if you consider a warrant may be required as this is a more complex area of the law. Examples of when a warrant may be applied for to enable entry and search are:

- Evidence of indictable offences (Section 8 of PACE 1984)

- Stolen property (Section 26 of the Theft Act 1968)
- Controlled drugs (Section 23 of the Misuse of drugs Act 1971)
- Schedule 5, paragraph 1 and 11 of the Terrorism Act 2000
- Require a specimen of breath or arrest a person following a positive breath test (Section 6E(1) Road Traffic Act 1988).

Application for a warrant - Section 15 of PACE 1984

The actual application for the warrant can only be made with the authority, in writing, of an officer of the rank of at least inspector. If the case is an urgent application to a justice of the peace and an inspector or above is not readily available, the next most senior officer on duty can give the written authority. Every effort should be made to obtain the authority from an inspector or above before seeking authority from a lower rank, and the need for the warrant must be urgent.

When a constable (or designated investigating officer) applies for a warrant to search premises, they will be required to state the grounds for the warrant and the legislation it would be issued under. The constable or designated investigating officer applying for the warrant will make their request under oath, and as such they are required to answer any questions that the justice or judge puts to them regarding the matter.

The application is made without the knowledge of the defence or owner/occupier of the premises (a term known as “ex parte”) and must be supported by an information in writing. The constable who applies for a warrant has to state:

- The grounds for the application
- The enactment under which the warrant would be issued
- If the application is for a warrant authorising entry and search on more than one occasion, the grounds plus further details as listed under section 15 of PACE 1984.

The warrant itself can authorise entry to a property once only unless it is a warrant under Section 8 PACE which authorises multiple entries, in which case it can be executed as many times as is required for the purposes to which the warrant is put, subject to any maximum number of entries specified on the warrant.

The warrant itself must state on it:

- the name of the person who applied for it

- the date on which it was issued
- which piece of legislation it was made under
- the premises to be searched, or in the case of an all premises warrant, the name of the person in occupation or control of the premises, together with as much information as possible to identify the premises
- the articles or persons sought, so far as is practicable.

Search warrants for indictable offences - Section 8 of PACE 1984

Before applying for a warrant under section 8 PACE 1984, there must be reasonable grounds for believing that an indictable offence has been committed and there is material on the premises that is relevant evidence and likely to be of substantial value to the investigation. So far as is practicable, the articles or persons to be sought should be identified on the search warrant.

Under section 8, two types of search warrant can be applied for:

- Specific premises warrant - for the search of one or more sets of premises specified in the application
- All premises warrant - requires that the application must specify as many premises that can be named, identify the occupier or controller of the premises and state why it is necessary to search more premises that can be specified and why it is not reasonably practicable to specify all the premises at the time of the application. Premises which are not specified in the warrant must not be entered and searched without the prior written authority of an officer of the rank of inspector who is not involved in the investigation.

Frequently a warrant will be taken out for a property in multiple occupation. In this case, rather than simply state the address, the warrant must be more specific. Instead of just stating the premises it would state "Those parts of the building under the occupation or control of (named person), and any communal areas at (relevant address)".

Any material found on the premises that is relevant evidence and likely to be of substantial value to the investigation may, under section 8, be seized. In this Act "relevant evidence" in relation to an offence, means anything that would be admissible in evidence at a trial for the offence. You are not allowed to seize items subject to legal privilege such as communications between a professional legal advisor and their client.

Execution of a warrant - Section 16 of PACE

A warrant to enter and search premises may be executed by any constable and it may also authorise others to accompany the constable. If another person is authorised then they would have the same powers as the constable they accompany in executing the warrant and seizure of anything relating to that warrant. The authorised person must be in the company of and be supervised by a constable.

The search warrant must be executed within three months of its issue and if the occupier is present at the time the premises are entered and searched then the constable must identify themselves, if not in uniform by producing documentary evidence, must produce the warrant and supply the occupier with a copy. If no-one is present then a copy of the warrant must be left in a prominent place on the premises.

Searches under PACE Schedule 1 or the Terrorism Act 2000, Schedule 5

Searches under Schedule 1 of PACE or Schedule 5 of the Terrorism Act 2000 state that an officer shall be appointed as the officer in charge of the search, in respect of any search made under a warrant issued under PACE Act 1984, Schedule 1 or the Terrorism Act 2000, Schedule 5. They are responsible for making sure the search is conducted with discretion and in a manner that causes the least possible disruption to any business or other activities carried out on the premises.

Once the officer in charge of the search is satisfied material may not be taken from the premises without their knowledge, they shall ask for the documents or other records concerned. The officer in charge of the search may also ask to see the index to files held on the premises, and the officers conducting the search may inspect any files which, according to the index, appear to contain the material sought.

A more extensive search of the premises may be made only if:

- The person responsible for them refuses to:
 - Produce the material sought, or
 - Allow access to the index
- It appears the index is:
 - Inaccurate
 - Incomplete.

For any other reason the officer in charge of the search has reasonable grounds for believing such a search is necessary in order to find the material sought.

4.9 Documentation relating to entry and search of premises

Notice of Powers and Rights

When entering occupied premises you should also provide the occupier with the Notice of Powers and Rights form and a copy of any search warrant used.

A notice of powers and rights informs the occupier of their rights and your powers - each force will have its own form for this purpose. The notice of powers and rights must:

- Specify the power under which the search is to be conducted, i.e. warrant, Section 17, 18 or 32 of PACE or occupier's/owner's consent
- Summarise the powers of search and seizure conferred by PACE and other relevant legislation
- Explain the rights of the occupier and the owner of any property seized
- Explain when, if appropriate, compensation may be paid for any damage to the property, and how to apply for it (see also Note for Guidance 6A)
- State that copies of PACE Code B are available at any police station.

Before the search begins, a copy should be given to the occupier of the premises if they are present, unless to do so would frustrate the search or endanger anybody. If the occupier is not present, copies of the notice and the search warrant should be left in a prominent position within the premises, showing the date and time of search and the officer in charge's contact details. On completion the details will also be entered into a search register.

You may find that your own force have local search documentation that caters for other types of searches, for example, where a warrant under Section 23 of the Misuse of Drugs Act 1971 has an included power to search any individual found on the premises. You should check your own force policy and familiarise yourself with the forms that you will be required to complete.

After a warrant has been executed

Once executed, the constable who has executed the warrant must endorse it as to whether the person or articles sought were found and whether any articles were seized in addition to

the articles mentioned in the warrant. There are additional requirements in s.16(9) if more than one set of premises is searched.

Once the warrant has been executed, or it becomes more than three months old, it must be returned to the originating source. In the case of a warrant issued by a justice of the peace - to the designated officer for the local justice area. If it was issued by a judge, it should be returned to the appropriate officer of the court from which it was issued.

5. Planning and Preparing a Search to Reduce Risk

5.1 General health and safety considerations

Some health and safety considerations are common no matter what you are searching or the location of the search. Failure to protect yourself could have severe and long term impact on your life and health. When handling items suspected of being evidence of an offence you should always be aware of basic health and safety considerations including:

- Do not eat, drink, smoke or touch your face while handling samples or exhibits, and then not until you have washed your hands.
- All body fluid samples should be regarded as potentially infectious. Be aware that the item that you are handling may have bodily fluids on it without your knowledge.
- Protect all cuts or grazes on your hands with waterproof dressings before handling items and use appropriate gloves.
- Handle all items as little as possible and wash your hands between handling unpackaged items to avoid cross contamination.
- Items which are considered hazardous should only be dealt with by specially trained staff. This could include:
 - all liquid blood and body fluid samples
 - any item stained with blood or other body fluid
 - items infested with parasites
 - hazardous chemicals
 - explosives, explosive devices, incendiary materials and pyrotechnics
 - firearms and ammunition

- any item with a sharp edge capable of causing penetration or injury.

Some risks are specific to different types of search and will need to be considered dependant on the specific circumstances.

Equipment available to minimise personal risk

Searching for stolen property, drugs and weapons is a routine part of the duties of most officers, yet they often expose themselves to unnecessary risks whilst searching as a result of confusion over police powers, or poor practice either because of over-familiarity with the task, or an unstructured approach. Equipment can vary between police forces, but can include handcuffs, batons, incapacity sprays and limb restraints. If necessary you can use reasonable force to conduct a search. However, if you need to use handcuffs, a baton, spray or limb restraints to conduct a search, consider whether it would be better conducted in a more controlled environment, for example, at a police station.

Your force may issue you with other protective equipment, such as body armour and stab or slash proof gloves. Whilst it can feel a little clumsy to wear these gloves whilst searching a person, they will protect you from implements such as hidden knives, razor blades sewn into the collar of a shirt or jacket lapel, up-turned syringe needles hidden in a person's pocket or down their socks. Gloves can also protect you from possible infectious diseases. Many forces issue latex gloves for this purpose. You must risk assess the situation and take appropriate precautions as you see necessary.

You should ensure that all your equipment is in good working order before you go out on patrol. The most important item is your radio communications terminal. Always check that the battery is charged and learn how to trouble shoot any simple problems before you get into difficulties.

5.2 Identifying possible risks and taking the appropriate action to minimise them

Good liaison with the communications centre is vital to successful policing and to keeping yourself safe. You should never venture into any incident without first informing the communication centre of your location, what you are dealing with and whenever that situation changes. This is no different when your intention is to search a person. Obtaining sufficient details to be able to carry out a PNC check of the person before you start your search will provide the communication centre with additional information relating to the incident and person that you are dealing with. This may also increase your safety if the

communication centre reports a warning marker on PNC regarding this person. Even if the person is not known on PNC or there are no warning markers, you should not be complacent regarding your safety and that of others. Always remain vigilant so that you can respond to and deal with the unexpected if it occurs.

You are more likely to make a good assessment of the possible risks that you face after considering all the information and intelligence. The list below covers some of the factors that may influence your risk assessment and decision making:

- Is the person compliant or aggressive?
- Is the person showing any behavioural signs (verbal or non verbal) that may indicate intent to resist or be aggressive?
- Are there any warning signals shown on the PNC, such as weapons, previous assault of police or escape from custody, infectious disease?
- Are there any other impact factors, for example, injury to the person, alcohol consumed or drugs taken?
- Are they on their own or in a group? If they are in a group, does the group pose a possible threat to your safety?
- Do you need to search more than one person at this time?
- Do you require the assistance of a second officer in the search or to act as an observer?
- What is the item that you are searching for and what danger might it present to you and or others?
- Where is the item thought to be concealed on the person?
- To what extent will you need to search the person?
- Is there a safe search area to conduct the search?
- Are you in a radio receptive area?
- Are there any immediate environmental factors that pose a danger, for example, traffic, proximity to water, objects on the ground that could injure or be used as a weapon?

Location of search and risk assessment

The location of your search is very important. If you are conducting a search outside in a public area, consider who may be able to observe the search. Whilst it is professional to be

open and transparent in our practice, we need to consider the feelings of the person being searched and minimise any potential embarrassment. You must balance this with risk assessing your own safety.

The health and safety risks of a vehicle search

There are many potential hazards during the process of searching vehicles, and the process of stopping vehicles is not risk-free either. To minimise risks, contact the communication centre before or immediately after stopping the vehicle and always conduct a PNC check on the vehicle and occupants, paying particular attention to any warning markers present.

Searching vehicles that have been involved in an accident or have been burnt out can be dangerous, even fatal, because of heat, corrosive fluids, fire and noxious gases. Be aware of the dangers of sharps and discarded substances which can lead to potential contamination by blood and other bodily fluids. If in any doubt, contact a vehicle specialist or your supervisor.

Choosing a safe location to search a vehicle

When planning searches, you should consider the location where the search will take place. This is important as it can affect your safety and the safety of any other searchers. Think about the geography of the immediate area and any hills, bends, hidden dips and close corners that may obscure you from other motorists. Be aware of possible escape routes by any suspects and any areas of thick undergrowth where objects could be hidden or thrown. You should also consider the weather under which a search is to take place. Poor weather conditions could result in loss of evidence or danger from other road users.

Overcoming communication difficulties

Overcoming communication difficulties caused by physical noise (aircraft, traffic, crowds etc.) can be relatively easy to deal with. You may need to speak up, wait until the noise obstruction has gone, move the person a short distance to a quieter location or ask other people to be quiet. It is important that the person that you are searching can hear your instructions. If you are dealing with a person who is deaf, deafened or hard of hearing you should try and ascertain their preferred method of communication, for example, lip reading, writing things down or using sign language with the help of an interpreter.

Code A of PACE Codes of Practice 1984 states that you must take reasonable steps to give the person searched the information specified by the GO WISELY mnemonic. It does not specify what 'reasonable steps' are, and each case must be looked at individually. If the

person that you are dealing with does not speak English, and you cannot communicate effectively with them you could consider the services of an interpreter. Check your own force policy in relation to the use of official interpreters in these situations. They are often available by using a language help line which can be connected quickly using a free telephone service.

Consider the language that you use in relation to the person and your perception of their ability to understand what you are saying to them. Use language which is appropriate for the person you are addressing, without talking down to them. Avoid technical terms and be polite. If you are not sure whether the person has understood you, check their understanding before going any further.

Be aware that as a general rule any member of the public should be allowed to observe you carrying out stop and searches as long as the person who is being searched does not object. The dignity and privacy of the individual being searched is of paramount importance and must always be considered.

Effect on the community

How officers carry out searching individuals, in particular when using their stop and search powers, has an important effect on community confidence. You must realise the damage that can be done to community relations by just one poorly executed stop and search. If officers are aggressive, rude or act outside of their legal authority, this can have a particularly negative effect which can extend into the wider community. It can also leave the individual officer and the police service open to public complaint and possibly civil and or criminal litigation. All stops and searches and premises searches must be carried out with courtesy, consideration and respect for the person concerned, which will encourage public confidence in the police. Every reasonable effort must be made to minimise the embarrassment that a person being searched may experience.

6. Systematic Searching

Using approved and appropriate methods will enable you to carry out effective, systematic and safe searches. The following notes supplement the following NCALT e-learning packages: The national Standard Search, Searching Premises, Missing Persons Search and Stop and Search. You may search for a missing person within premises, vehicles or open areas therefore it is essential you consider this whilst reading the following notes as well as complete the related Missing persons search e-learning. By conducting systematic searches you can be sure that you have not missed vital evidence, brief other officers if they arrive to assist on what has been searched and what still requires searching.

6.1 Systematic searching of an individual

Procedure before search

If you are detaining someone for the purpose of a search you must inform them of their detention as soon as it begins. The police have been criticised in their use of stop and search powers for failing to adequately explain to the person the grounds for the search and the object of the search; particularly in a way that avoids police jargon. Public trust and confidence in the police service is primarily based on being treated fairly and with respect. Your ability to remain professional and courteous will certainly help, but more importantly, your ability to have formed good reasonable grounds and be able to communicate this information effectively to the individual is essential.

The NCALT Standard Search e-learning module gives a visual demonstration of the systematic search technique that should be followed when conducting searches of individuals. Some key points about systematic searching, as covered in the Standard Search e-learning module, are included below:

- The searcher positions themselves at a 4 or 8 o'clock position relative to the person to be searched.
- The searcher tells the person to stand feet slightly apart and to extend their arms to the side or to the rear with palms open.
- The searcher conducts a visual check of the person to ascertain if anything is being carried. (Attribute property if relevant.)
- Any items carried are searched or placed on ground for subsequent search.

The searcher conducts a search of each quadrant of the person starting at the top and covering front and back. Searcher must not get distracted.

- A gentle sliding motion using both hands is used feeling for objects through clothing (do not pat).
- The boundaries of each quadrant should be overlapped.
- Ensure 'body depressions' (armpits, crotch) are searched.
- Search lower quadrant by kneeling to rear of subject and instruct them to raise and bend leg backwards.
- The head is searched as a 'separate quadrant'.

Attention is paid to collars, belts, waistbands, watches, bracelets.

- If possible, another officer should act as observer during the search. This is to ensure the safety of the searcher and subject, ensure that no item is concealed or disposed and ensure the search is fully completed. They should also then be able to corroborate the searcher's actions and finding of any evidence.
- Some of the main health and Safety issues which should be considered prior to and during a search are:

Bodily fluids, sharps, needles, other people, traffic, weather.

Some further general points about searching, and further explanation of some of the terms above, are made below:

Quadrant search

A quadrant search is where you imagine a vertical line running down from the top of the person's head to between their feet, with a secondary line bisecting the first horizontal line at the belt line effectively forming four quadrants. A quadrant-searching pattern ensures that you can search a quadrant at a time, until satisfied that this manageable area is clear. It is important to search over the imaginary vertical and horizontal line, so nothing is missed.

The right handed rule

A systematic approach will also increase your safety. For example, 85% of the world's population is right handed which means that there is a much higher chance of a weapon

being carried by a person being concealed in a right hand pocket than there would be in the left. Of course, this is not an exact science and you should never rule out the possibility of a weapon or any other item being concealed anywhere on the person, but in considering the right handed rule, it would make sense to begin your search of the person on the right hand side of their body unless your information or suspicion tells you otherwise.

The reason for your search and the item(s) that you are looking for can be varied. Whilst you may be searching for one item, you can never be sure what else you may come across during the search that may either be harmful to yourself and others, or be evidence of an offence.

Searching pockets

When searching pockets consider asking the person what items are in them first. Don't just put your hand in the pocket; there may be anything in there, from a sharp knife to an upturned syringe. You can pat the outside of the pocket first with the back of your hand, which may help to establish if there is anything inside, then pull the top of the pocket away and look as far as possible inside. If you suspect that the pocket is empty and you have no reason to suspect anything small may be in the pocket, pull the pocket lining right out if possible to ensure that it is empty. Tell the person that you are going to do this first, if they do have any small item inside which you need to safe-guard, they have an opportunity to tell you.

Searching waistbands and collars

Waistbands are a good hiding place for lots of items, from sharp implements, to money, to drugs. They should be gently eased away and checked behind; remember to check all round the waistband and if a belt is worn check between the belt and the waistband. Collars are another place where items are often concealed. You should gently ease them away to check behind and inside the collar.

Searching around socks and shoes

Extra care should be taken when searching around the foot area. Check socks by lifting the tops away from the ankle and gently squeezing around the ankle. Shoes cannot be removed in the street based search, however you should check around the top and the sole of the shoe.

Conducting a search in an ethical manner, recognising the needs of the individual and the community

Searching a person can be an uncomfortable experience, for both you and the subject. It is an invasion of the person's privacy and personal space, particularly if you need to search near intimate areas of the body such as near a person's breasts, genitals or buttocks. Some forces have a policy forbidding officers from searching a person of the opposite sex, to minimise any allegations of improper searching which could give rise to an allegation of indecent assault. You should check your own force policy regarding this matter before you conduct any searches.

However, the issue of ethical searching that protects the decency of the individual and avoids potential allegations of misconduct is applicable to everyone: it is not restricted to searching a person of the opposite sex. Always tell the person where you are going to search next, so they are not taken by surprise or misunderstand what is happening. For example, you could say "I am now going to search around the waistband of your trousers, which will involve me feeling inside the waistband." When searching near sensitive areas such as the breasts, groin and buttocks it can help to use the back of your hand to feel for items that may be concealed, rather than the palm of the hand in a patting or squeezing action. This can help maintain the person's dignity and reduce possible allegations or misunderstanding.

The Gender Recognition Act 2004

The Gender Recognition Act 2004 has implications for the legal and ethical searching of individuals. The Act allows people who are aged at least 18 years, and have taken decisive steps to live fully and permanently in their acquired gender to gain legal recognition in that gender by applying for a Gender Recognition Certificate (GRC).

Where a GRC is issued, the person's gender becomes for all purposes, the acquired gender in law. The recording of a person's sex is a standard entry on most police nominal systems; PNC is one of those systems. PNC will be updated with a Gender Reassigned (GR) marker to indicate why the person may have a different PNC entry in a different male or female name. The new name/sex will become the main record and the previous name/sex will become the alias.

Guidance should be sought from your own force policy in relation to officers conducting searches on trans-gender individuals.

Appropriate control of an individual being searched

How you conduct the search can be largely affected by whether or not the person is cooperative. A cooperative search is when the person is totally cooperative from the outset, and you have considered any impact factors, warning and danger signs and believe that the level of threat is low and there is no obvious justification for you to use any kind of control or restraint methods.

If there is a solid structure, such as a wall, the searcher may use this as protection behind them to prevent out-of-vision approaches by offenders or persons intending to interrupt proceedings.

The subject should be asked to stand with their legs slightly apart, arms extended sideways with palms facing up and their fingers extended. A visual assessment of the subject should be carried out prior to physical contact, looking for bulges, clothing disarrangement or bodily compensation for something being carried.

A compliant subject may quickly become uncooperative or aggressive. A planned approach will, therefore, allow suitable reaction should there be a change in the subject's demeanour.

A potentially uncooperative search would be a search, where from the outset, you have considered the impact factors, danger and warning signs, the person's demeanour, and any other information received and as a result you have assessed the level of threat to be sufficient to justify and warrant a degree of physical control or restraint. Searches of an uncooperative person should be carried out as for a search of a cooperative person, but with heightened awareness.

The searcher should not stand directly in front of, or behind, the subject to avoid being kicked, kneed or head butted.

6.2 Systematic searching of any connected property

Finding personal and connected property

The term 'connected property' is a police term that refers to any property that may be evidence of an offence or have some connection to an offence. This could be anything from a weapon used to commit an assault, to a jumper worn by a suspect that may have possible microscopic glass samples in the fibres from being at the scene where a window was broken.

You do not have to know this as a fact, if you have reasonable grounds for believing that it is evidence of an offence or it has been obtained in consequence of the commission of an offence, then you have a power to seize it if you also believe that it is necessary to do so to prevent it being concealed, lost, altered, damaged or destroyed. This power is under Section 19 PACE 1984. You need to take care of all items found that may be evidence of an offence or used as a weapon. Once you have removed the item from the person, consider where you put it during the remainder of the search. It must be safely out of reach of the person you are searching, yet remain within your sight.

This is where the value of a second officer cannot be over estimated. A second officer can observe the search, watching for your safety as well as helping you to deal with any items found. If you are searching a person on your own, you will need to quickly risk assess the situation and decide if it is appropriate to go ahead with the search. You will then need to continue to conduct a dynamic risk assessment throughout the search, remaining alert to any changing circumstances.

Ensuring that the person's personal items are handled with care is equally as important as dealing with connected property. Factors such as weather conditions must be taken into account. If there is nowhere clean, dry and safe to place the item once you have searched it and are satisfied that it is safe, you could consider handing it back to the person. For example, in the case of a coat or jacket you could ask them to hold it in their hand outstretched in view for the remainder of the search, or they could put it back on if it would not hinder your continued search.

Informing the individual of the result of the search

You should constantly communicate with the person that you are searching, which can help to put them at ease. If you find something on the person during your search which you believe to be evidence of an offence or obtained in consequence of the commission of an offence, you should point this out to the person so that they clearly understand what you have found. An example might be; "I have just found this knife in your pocket which is an offensive weapon." Be careful about asking any questions that may be classed as an interview.

If your search is pre-arrest, you may have to caution and arrest the person if you have found something that leads you to suspect an offence. If your search is post-arrest and the item that you find is connected to the offence for which you have arrested that person, you should point out the item to them. If you have found something that appears to be evidence of a different offence you still need to point out the item to them, but you may also have to inform

the person that they are now under arrest on suspicion of a second offence, and what that offence is.

You may not find anything on the person, or find that the original information has been mistaken and it is an innocent item that is possessed. In this case you should inform the person that no offences have been disclosed and thank them for their cooperation. It is important to do this to avoid future public/police relations being adversely affected by the incident. Always deal with people in a polite and courteous way, giving an adequate explanation of what has taken place and why.

Secure evidence at a search of an individual

When you conduct a search of an individual it can be for a variety of different reasons in a multitude of different places, depending on the circumstances and the power that you are using. You could be searching for drugs, stolen property, weapons, firearms, or items used for fraud such as bogus identification.

How you conduct a search of an individual, preserving the scene and any potential evidence has to be the same, no matter what suspected offence you are dealing with because situations might not always appear to be what you think at the time, or they may change. You could be the first officer at the scene of an assault and arrest the suspect who you then need to search. If that assault turned out to be much more serious than you first thought, and the victim died later as a result any potential evidence that you recovered from the suspect could now be crucial evidence in a murder enquiry.

6.3 Systematic searching of premises

Before a Search

Whenever premises are searched under PACE Code B, one officer must be designated as the officer in charge of the search - this is not always the senior officer present. Searches carried out by employees designated under the Police Reform Act 2002 (designated investigating officers and PCSOs) are also subject to Code B.

Before a search, as much information as possible should be obtained about the premises and occupiers, including whether the premises have been searched before, and how recently. This will assist in risk assessment of the proposed course of action, and allow the necessary safeguards to be put into place, such as extra staff, specialist resources etc.

Once the necessary power or authority to enter and search premises is obtained, the following things may need to be considered:

- Do you have the necessary copies of the warrant, as well as the original?
- Is the custody suite aware?
- Do you have sufficient transport for detainees and property?
 - If anyone is arrested, where are they to be taken? Is it appropriate that they all go to the same custody suite, or does the nature of the offence mean they have to be split up at separate sites? Will it only be one or two people or several - does the custody unit have the space? Is the custody officer aware of the search and all it may entail?
 - Bulk or large quantities of property needs serious consideration, as does the destination - is it suitable for the detained property store at the local police station, or will specialist or bulk storage be required?

The following considerations may affect the size of the search team:

- How big are the premises in relation to the item being searched for? Small items of jewellery could be difficult to find even in a small property, whereas large items such as electrical goods or vehicles would be relatively easy to find regardless of the size of the premises.
- What exactly is being searched for - will a specialist search dog assist?

Once assembled, the officer in charge will brief the search team on their individual tasks. The search team will consist of those carrying out the search, the officer in charge and the exhibits officer. If the search will consist of anything more complicated than one room, a plan may need to be drawn up detailing who will enter and search each room. It is vital that any plan is adhered to and that the search team only go into the areas they are allocated. Only the officer in charge and the exhibits officer should go to all rooms in the property so that if there is cross contamination of evidence, the only common denominators would be those two officers.

The procedure for entry with PACE powers or a warrant

If premises are to be searched under the powers of PACE sections 17, 18 or 32, or with a warrant, PACE Code B, paragraph 6.4 sets out the procedure that must be followed:

The officer in charge of the search shall first try to communicate with the occupier, or any other person entitled to grant access to the premises. They should explain the authority under which entry is sought and ask the occupier to allow entry, unless:

- The search premises are unoccupied

- The occupier and any other person entitled to grant access are absent
- There are reasonable grounds for believing that alerting the occupier or any other person entitled to grant access would frustrate the object of the search or endanger officers or other people.

Remember, the occupier may not necessarily be a suspect - the person under arrest might live in part of their premises. If so, you will need to fully explain the grounds for the search and its purpose to the occupier. If the occupier gives their consent for the search, you still need to go through the process of executing the warrant (if you have one) in case the occupier suddenly withdraws consent.

Under paragraph 6.5 of PACE Code B, if the premises are occupied the officer in charge of the search must, before the search begins:

- Identify themselves, show their warrant card (if not in uniform) and state the purpose of and grounds for the search
- Identify and introduce any person accompanying the officer on the search (such persons should carry identification for production on request) and briefly describe that person's role in the process.

Identification should always take place before the search begins. However, on some occasions, the start of the search need not wait for the identification process to begin if to do so would lead to evidence being destroyed, or to someone being endangered (for example, if somebody in the premises has time to retrieve a weapon). The officer in charge will need to make a decision regarding whether there are reasonable grounds to affect entry forcibly.

Those taking part in the search do not need to be identified by name if the search is linked to the investigation of terrorism, or the officers reasonably believe recording or disclosing their names might put them in danger. (See paragraph 2.9 of PACE Code B.)

Limits of searches

A search may not continue under:

- a warrant's authority once all the things specified in that warrant have been found
- any other power once the object of that search has been achieved.

Example

- If a warrant states that the object of the search is to recover a stolen antique painting, once the painting is recovered the search should stop.
- If the object is not specific e.g. drugs, then one seizure would not necessarily halt the search if there are reasonable grounds to suspect that there may be more drugs on the premises.

No search may continue once the officer in charge of the search is satisfied that the object of the search is not on the premises. This does not prevent a further search of the same premises if additional grounds come to light supporting a further application for a search warrant or exercise or further exercise of another power. For example, when as a result of new information, it is believed articles previously not found or additional articles are on the premises.

Witnesses to a search

A friend, neighbour or other person must be allowed to witness the search if the occupier wishes, unless the officer in charge of the search has reasonable grounds for believing the presence of that person would seriously hinder the investigation or endanger anyone. A search need not be unreasonably delayed for this purpose. A record of the action taken should be made on the premises search record, including the grounds for refusing the occupier's request.

Questions during a search

It is not required to caution a person prior to asking them questions solely necessary for the purpose of furthering the proper and effective conduct of a search. For example, questions to discover the occupier of specified premises, to find a key to open a locked drawer or cupboard or to otherwise seek cooperation during the search or to determine if a particular item is liable to be seized. However, if questioning goes beyond what is necessary for this purpose, the exchange is likely to constitute an interview as defined by Code C, paragraph 11.1A and would require the associated safeguards included in Code C, section 10.

Example

- You are searching a house for items stolen during a burglary. You find a bedroom door that is locked and the key is not in the lock. You ask the people present where the key is and do not caution them as it is not required under these circumstances.
- Whilst searching inside a drawer you find and seize a weapon. You do not ask any questions about it at this stage as that would constitute an interview, you would need to caution them and proceed under PACE Code C.

Systematic premises search procedures

The following information is a brief overview of some of the key points in relation to the systematic search procedure that are covered in the Searching Premises e-learning, available on the MLE:

- Stand at the doorway of the room, look and listen for anything that may affect the search.
- Identify anything that is visually obvious and relevant to the search.
 - Evidence of other items which may cause a prominent health and safety issue.
 - Decide whether to delay the search until the health and safety issues have been dealt with (seek appropriate guidance as necessary).
 - Identified items/evidence should be seized, bagged and labelled appropriately.
 - Specialist advice might be needed prior to the handling of electronic devices.
- Where possible, work in pairs and progress from the door around the room, dealing with each item in turn and concentrating on those in the centre at an appropriate time.
- Ensure that not only the contents of furniture are searched in a thorough manner, but also the furniture itself, for example underneath a drawer for stolen credit cards stuck to the bottom.
- The search of items, particularly clothing, should conclude with them being replaced in a tidy manner, even where initially found in an untidy manner.
- On completion of the search, return the room to the original state in which it was found where possible.

Search Considerations:

- Ensure that the grounds, including all outbuildings and vehicles within the boundaries of the premises, are searched.
- During the search of any building it may become apparent that a particular room or part thereof cannot be fully accessed. The search should continue past this point, unless there is good reason not to. The reasons must be recorded, noting the exact limitation. The person in charge of the search should be notified and a decision made on how to resolve this problem.
- Where damage is to be caused to allow access to a restricted area, authorisation from a supervisor is required.
- Complete any necessary search documentation accurately during the search.
- Any equipment or documentation used in a search must be removed on completion of the search.
- The person in charge of the search should request that the occupant accompany them for a final damage check of the premises. Any damage should be noted and witnessed by the occupier.
- Record all actions, results and involvement of those involved in the search.

6.4 Counter-terrorism and searching premises

You can contribute to counter-terrorism whilst on patrol duties, particularly whilst searching premises as the search of buildings is one of the most frequent operational deployments for officers.

Systematic search procedures are equally as effective when applied to counter terrorism operations as they are with drug and crime related searches. While conducting systematic searches you may find posters, leaflets, CDs, DVDs, books and other items which may point towards allegiance to a particular group. In addition, clothing with slogans and badges may also indicate terrorist affiliation.

6.5 Systematic searching of vehicles

To ensure that every part of the vehicle is searched and nothing missed a systematic search must be conducted.

There are five distinct areas of a vehicle that must be searched:

1. Interior
2. Boot or cargo area
3. Engine compartment
4. Outside
5. Underneath

These areas are further classified as 'clean' or 'dirty'. Searching the interior of the vehicle will have possible dangers attached but particular care must be taken when touching the interior of the engine compartment. A vehicle should be systematically searched from area 1 to 5, starting with the interior and progressing through to the underneath of the vehicle from the general to the specific.

A search of the interior of the vehicle involves the following steps:

- Visual search for obvious items
- Door of the vehicle is searched from top to bottom
- Open the window to its full extent to ensure that it is not restricted by hidden items
- Interior of the vehicle is split into four sections - driver area, front passenger area and the two rear passenger areas; each is searched in turn
- Seat should be checked for any protruding needles, sharps or other items that may cause personal injury prior to entering the vehicle. Headrests and seat belts should be checked - the belt should be pulled out to its full extent
- Ensure the roof lining and any other interior fixtures are searched
- Dashboard, attention should be paid to:
 - The ventilation and heater hoses with access from both ends of the hose
 - Radio, CD, tape, speakers, satellite navigation or other system
 - Ashtray contents and the void behind when it has been removed
 - The central tunnel console including any void
 - Foot well

- The side panel
- Internal side trim along the inside at the bottom of the door frame
- Underneath the carpet and any mat
- Drain holes
- The glove box
- Driver's seat and surrounding area
- Consider seizing Sat Nav and Bluetooth kit which can contain valuable forensic opportunities
- Front passenger seat(s) and surrounding area(s)
- The rear passenger sections are then systematically searched using the same system
- Ensure that the boundaries between sections are overlapped.
- Boot or Cargo Area:
 - Visual check of contents and internal structure
 - Structure checked for any new welding, paint, mastic, glue, under-seal or pop rivets
 - Loose items within the boot are searched in situ and then placed outside the vehicle in a safe place
 - Boot lid is searched
 - Search voids created in manufacture
 - The back of the rear seat(s)
 - Underneath carpet
 - The spare tyre, and its housing
 - The fuel tank, to establish if it has been tampered with
 - Rear light clusters
 - Return items that are not subject to further enquiry.
- Outside of vehicle:
 - Top and sides of the vehicle are searched from the front to the back

- Position driver/owner so they can be observed without having access to the interior of the vehicle
- Overall shape of the vehicle checked to confirm the outer wings and other alignments match
- Front of the vehicle is then searched and then the searcher moves along one side checking the top and sides along to the rear of the vehicle
- Back is then searched and the searcher repeats the process in reverse
- Signs of recent welding or new underseal
- Screws or bolts that have been tampered with or renewed
- New paint or a different shade
- Windscreen wipers, looking inside the framework of the arm
- All light clusters, noting any anomalies
- Voids both behind and inside bumpers and over-riders
- Within wheel arches and behind wheel arch liners
- The void behind wheel trims and hub-caps
- Spoilers which may contain voids
- Bull bars, tow bars, bike and luggage racks
- Fuel cap.
- The engine compartment:
 - Air filters
 - Battery boxes.
- Underneath the vehicle:
 - Signs of new underseal or welding
 - The area around lifting axles
 - Compare wheel nuts on existing tyres and check wheel and tyres for signs of tampering.

- Once search is complete:
 - The vehicle is returned to its original condition
 - Items used during the search such as torches, mirrors and gloves are accounted for
 - Complete all relevant documentation in line with national local force policy
 - Any seized items or objects are correctly packaged, sealed and labelled.

The need to conduct a vehicle search may follow on from the search of an individual. There may also be occasions where you are required to search a vehicle as a condition of entry to a location or event, for example where vehicles are permitted to enter a military establishment for an air show and there is the possibility of terrorist attack.

Specialist Searches

Sometimes, you may require assistance with searches that are out of the ordinary for example, searches of commercial vehicles, agricultural machinery, public service vehicles and vehicles that carry food or refrigerated loads. You should ask for assistance from those who may be able to assist with the more specialist searches, such as road policing, Counter Terrorism, Police Search Advisors (PoISA) or any other related agencies.

The importance of communication with colleagues and any other individuals

Articles found within the vehicle may well alert suspicion as to the possibility of further offences, for example, terrorism, human trafficking and drug dealing. Large amounts of cash may indicate proceeds of crime. If you are accompanied during the search by a colleague, be sure to let each other know of any developments or finds to ensure a thorough job is done and that nothing is missed.

6.6 Counter-terrorism and searching vehicles

Items that may be found during a vehicle search which may indicate terrorist activities

'Key Indicators' concerning terrorists' use of vehicles are that:

- Vehicles are old
- In poor condition
- Bought at auction
- Not registered with DVLA in genuine names

- Inside the vehicle:
 - Quantities of clothing and electrical equipment
 - Store vouchers
 - Plastic cards (e.g. credit/debit cards)
 - Identity documents e.g. utility bills (forged)
 - Passports
 - Parking tickets.

Note:

If there is a suspicion that a vehicle has been registered in a number of different names over a short period of time in an attempt to conceal the identity of the true owner/user, the vehicle's document trail can be obtained from the DVLA by submitting the forms VQ615 and VQ616, available via your force IT system, stolen vehicle squad or DVLA Liaison Officer.

If you have any suspicion that the person you are dealing with is exhibiting these key indicators you should inform your Special Branch.

Things to look for are:

- Fraudulent bank accounts
- Stockpiling of cheque books
- Multiple cheque purchases (up to £99 each)
- Multiple returns of goods for cash
- Working in pairs or groups
- Vehicle parked nearby

Possession of a large quantity of cash, clothing and receipts.

Even though you may have suspicions the person you are dealing with may be involved in terrorist activities you should arrest for the substantive offence, i.e. the fraud or theft, rather than using the Terrorism Act 2000.

The actions to be taken on discovery of a firearm

There may be times when a firearm is discovered during a search. It is important that the utmost care is taken when dealing with or handling firearms. You should refer to your own force policy in relation to dealing with fire arms.

There may also be times when a search is conducted as a firearm is suspected of being carried in a vehicle. These searches will be conducted under section 47 (4) of the Firearms Act 1968. For such searches, you will be briefed beforehand.

Section 47(4) of the Firearms Act 1968 states that:

“if a constable has reasonable cause to suspect that:

- a. there is a firearm in a vehicle in a public place, or
- b. that a vehicle is being or is about to be used in connection with the commission of ‘an offence relevant to this section’ elsewhere than in a public place (that is one of the offences outlined in section 47 above).

The constable may search the vehicle and, for that purpose, may require the person driving or in control of the vehicle to stop it.”

6.7 Systematic searching of open areas

Considerations prior to the search of an open area: Identifying the search parameters

Following the successful application for a warrant, if you need to conduct a search of an open area you must consider the following:

- Ensure that the location corresponds with the details on the search authority
- Remember landowners/occupiers must be treated with courtesy, and their possessions with respect
- Remember the open area may be a crime scene and should be treated as such
- The open area may be subject to environmental protection orders and inhibit what search techniques can be deployed.

The search of an open area is potentially more visible to members of the public than other types of searches (such as those inside buildings). Therefore, you should consider the possible impact upon the police’s image and reputation if an open area search is not seen to be conducted professionally and thoroughly.

Factors that may have an impact upon the resources required to search the area

The following factors will have an impact upon the resources needed and the estimated duration of the search:

- An initial visual check may be required in certain situations and when resources are limited. However, the possibility of any initial visual check disturbing possible forensic evidence should be considered
- Size of the area and the nature of the terrain
- Consider looking at all relevant aerial photographs, topographical and geographical maps of the open area to be searched
- Establish ground conditions - if item sought is buried, establish the ground's 'digability'
- Size of the item sought, and its makeup: is it organic, metallic etc.
- If the item has been hidden or abandoned where it cannot easily be seen
- Present and expected weather conditions
- Consider seeking advice, guidance and support from supervisor or specialist resources i.e. dog handler, PolSA, geophysical survey, Air Support.

The process of an open area search

During and after an open area search, the following things should be considered:

- Ensure that all the grounds within the boundaries of the area are searched. If required, any structure, premises, or vehicles within the boundaries of the area are examined and searched using the specific technique for that task. The boundaries should be 'overlapped' to ensure that the whole area has been searched
- Where lawful damage is to be caused to allow access to a restricted area, this must only be done with the authorisation of a supervisor
- Any limitation to the extent of the search should be recorded in the relevant documentation
- Complete any necessary search documentation accurately and legibly during the search
- Any equipment or documentation used in the course of the search should be taken away on completion

- When possible, the land should be returned to the original state in which it was found on completion of the search
- The person in charge of the search, along with another member of staff, should request that the occupant accompany them for a final damage check. Any damage should be noted and witnessed by the occupier
- Record actions, results and involvement of all involved in the search
- Consider completing a Community Impact Assessment.

When a search of an offender route would be required

An open area search may be focussed on the route that it is believed that the offender has taken. Such routes may be identified through local knowledge or the use of available information and intelligence about the incident and the area concerned. The area to either side of the route in which an article may be discarded or secreted must be included in the search parameters. Where the offender may have been when an item was discarded should be considered in order to give further focus to the search.

Other points to consider are whether specialist resources are required such as using a British Transport Police search team for searching a railway route that an offender may have used. As with all types of searches, search areas should be overlapped so that all areas are covered and nothing is missed.

6.8 Counter-terrorism and searching open areas

The search you are carrying out may well relate to the subject of terrorism, but even if it does not, items you may discover may be related to terrorism. Officers should be aware that the nature of a search might change due to what is found, for example, a drug related search may change into a counter-terrorism operation.

Terrorists and organized crime groups often use open areas for hides which are observable from nearby premises without being attributable to individuals. Although normally associated with rural locations, open areas such as parks, gardens and waste ground occur in an urban setting.

Items that may be found whilst searching open areas that could suggest a link to terrorist activities

Hides may contain drugs, weapons or explosives caches, or be used to observe target areas or venues.

- Explosive find - any item other than small arms ammunition that contains, or is suspected of containing any amount of explosive. This type of find is deemed to be life threatening
- Firearms find - firearms should always be treated as loaded and therefore as a possible threat to life.

As well as explosive or firearms, you may uncover a non-explosive find.

- Non explosive find - This includes items such as switches and timers, which could be used in the construction of an IED (Improvised Explosive Device), documentation, books, DVDs, clothing etc. these items and in particular small arms ammunition must be recovered as per force policy.

The actions to be taken on discovery of an explosive find

If any such finds are uncovered, you should seek assistance from your supervisor and relevant specialists.

7. Correct Recording, Packaging and Storage of Evidence

One of the tactics used by a defence team is to attack forensic evidence in court. They will seek to discredit the continuity of the item by questioning the packaging, storage, contamination or loss of evidence, as well as the maintenance of a documented chain of continuity. In order to prevent this you should always follow the correct pocket book, or evidence and action book, entry recording, packaging and storage procedures. See the module notes titled 'Scene preservation and exhibits' for more detail.

8. Revision Questions

- What is the difference between reasonable grounds to suspect and reasonable grounds to believe?
- Define 'premises' in relation to entry and search powers.
- What does Section 19 of PACE 1984 allow you to seize?
- Code A of PACE codes of practice allow you to remove which items of clothing when searching a person in public view?
- To conduct a Section 1 PACE 1984 stop and search you must have reasonable grounds to suspect you will find which items?
- What information must you give a person before conducting a Section 1 PACE 1984 stop and search?
- Who must carry out a search involving removal of more than 'JOG'?
- What are the key differences between Sections 43, 43A and 47A of the Terrorism Act 2000?
- When could a constable in uniform enter premises under Section 17 PACE 1984?
- When can the powers of search, or enter and search, under Section 32 of PACE 1984 be used?
- Who may give authority to conduct an entry and search of premises under Section 18 PACE 1984?
- How could you reduce risks when planning a search?
- What are the key points to remember when conducting a systematic search?

9. Key Legislation

Key pieces of legislation and guidance applicable to this topic are:

- Codes A and B of the Codes of Practice to the Police and Criminal Evidence Act 1984
- Schedule 1 of the Human Rights Act 1998
- Sections 1, 8, 15, 16, 17, 18, 23, and 32 of the Police and Criminal Evidence (PACE) Act 1984
- Section 23 Misuse of Drugs Act 1971
- Sections 43, 43A and 47A of the Terrorism Act 2000
- Sections 44 to 47 of the UK Borders Act 2007
- Sections 289, 294 and 412 of the Proceeds of Crime Act 2002
- Stop and Search Authorised Professional Practice (APP).

10. E-learning

In addition to this book the following e-learning is available via the College of Policing Managed Learning Environment (MLE):

- National Standard Search
- Searching Premises
- Missing Persons Search
- Stop and Search.

The e-learning provides information about the systematic search approach that should be followed.

The MLE is regularly updated with new learning programmes and materials.