



Department of
Justice

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POLICE & CRIMINAL EVIDENCE (NORTHERN IRELAND) ORDER 1989

CODE A

Code of Practice for the exercise by police officers of statutory
powers of stop and search

Commencement - Transitional Arrangements

This Code applies to any search by police officers taking place after
midnight on 31 May 2015.

General

- 1.01 This code of practice must be readily available at all police stations for consultation by police officers, detained persons and members of the public.
- 1.02 The notes for guidance included are not provisions of this code, but are guidance to police officers and others about its application and interpretation. Provisions in the annexes to the code are provisions of this code.
- 1.03 This code governs the exercise by police officers of statutory powers to search a person or a vehicle without first making an arrest. The main stop and search powers to which this code applies are set out in Annex A, but that list should not be regarded as definitive. *See Note 1.* This code does not apply to:
 - (a) the powers of stop and search under:
 - (i) Aviation Security Act 1982, section 27(2);
 - (ii) Police and Criminal Evidence (Northern Ireland) Order 1989 Article 8(1) (which relates specifically to powers of constables employed by statutory undertakers on the premises of the statutory undertakers);
 - (iii) section 85,95 and 116 of and Schedule 10 to the Terrorism Act 2000.
 - (b) searches carried out for the purposes of examination under Schedule 7 to the Terrorism Act 2000 and to which the Code of Practice issued under paragraph 6 of Schedule 14 to the Terrorism Act 2000 applies.
 - (c) the powers to search persons and vehicles and to stop and search in specified locations to which the Code of Practice issued under section 47AB of the Terrorism Act 2000 applies.
 - (d) the exercise of stop and search powers to which the Code of Practice issued under section 34 of the Justice and Security (Northern Ireland) Act 2007 applies.

1. Principles governing stop and search

- 1.1 Powers to stop and search must be used fairly, responsibly, with respect for people being searched and without discrimination on the grounds of religious belief or political opinion, racial group, age, marital status, sexual orientation, gender, or disability. The Chief Constable should ensure that in the exercise of their functions, officers have regard to the need to safeguard and promote the welfare of all persons under the age of 18 years and that the decision to stop and search a child must be the best interests of the child and in compliance with obligations under Article 3 of the UN Convention on the Rights of a child. *See Notes 12 and 13.*
- 1.2 The intrusion on the liberty of the person stopped or searched must be brief and detention for the purpose of search must take place at or near the location of the stop.
- 1.3 If these fundamental principles are not observed the use of powers to stop and search may be drawn into question. Failure to use the powers in the proper manner reduces their effectiveness. Stop and search can play an important role in

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

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

2. Explanation of powers to stop and search

- 2.1 This code applies, subject to paragraph 1.03, to powers of stop and search as follows:
 - (a) powers which require reasonable grounds for suspicion, before they may be exercised; that articles unlawfully obtained or possessed are being carried;
 - (b) authorised under Article 23B of the Public Order (Northern Ireland) Order 1987, based upon a reasonable belief that incidents involving serious violence may take place or that people are carrying dangerous instruments or offensive weapons within any locality in the police area;
 - (c) Not used;
 - (d) powers to search a person who has not been arrested in the exercise of a power to search premises (see Code B paragraph 2.4); and
 - (e) the powers in Schedule 5 to the Terrorism Prevention and Investigation Measures (TPIM) Act 2011 to search an individual who has not been arrested, conferred by:
 - (i) paragraph 6(2)(a) at the time of serving a TPIM notice;
 - (ii) paragraph 8(2)(a) under a search warrant for compliance purposes, and;
 - (iii) paragraph 10 for public safety purposes.

(See *paragraph 2.18A.*)

Searches requiring reasonable grounds for suspicion

- 2.2 Reasonable grounds for suspicion depend on the circumstances in each case. There must be an objective basis for that suspicion based on facts, information, and/or intelligence which are relevant to the likelihood of finding an article of a certain kind. Reasonable suspicion can never be supported on the basis of personal factors alone without reliable supporting intelligence or information 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 the fact that the person is known to have a previous conviction, cannot be used alone or in combination with each other, or in combination with any other factor, as the reason for searching that person. Reasonable suspicion cannot be based on generalisations or stereotypical images of certain groups or categories of people as more likely to be involved in criminal activity.
- 2.3 Reasonable suspicion may also exist without specific information or intelligence and on the basis of the behaviour of a person. For example, if an officer encounters someone on the street at night who is obviously trying to hide something, the officer may (depending on the other surrounding circumstances) base such suspicion on the fact that this kind of behaviour is often linked to stolen or prohibited articles being carried.
- 2.4 However, reasonable suspicion should normally be linked to accurate and current intelligence or information, such as information describing an article being carried, a suspected offender, or a person who has been seen carrying a type of article known to have been stolen recently from premises in the area. Searches based on accurate and current intelligence or information are more likely to be effective. Targeting searches in a particular area at specified crime problems increases their effectiveness and minimises inconvenience to law-abiding members of the public. It also helps in justifying the use of searches both to those who are searched and to the general public. This does not however prevent stop and search powers being exercised in other locations where such powers may be exercised and reasonable suspicion exists.
- 2.5 Searches are more likely to be effective, legitimate and secure public confidence when reasonable suspicion is based on a range of factors. The overall use of these powers is more likely to be effective when up to date and accurate intelligence or information is communicated to officers and they are well-informed about local crime patterns.
- 2.6 Where there is reliable information or intelligence that members of a group or gang habitually carry knives unlawfully or weapons or controlled drugs, and wear a distinctive item of clothing or other means of identification to indicate their membership of the group or gang, that distinctive item of clothing or other means of identification may provide reasonable grounds to stop and search a person. See *Note 9.*
- 2.7 A police officer may have reasonable grounds to suspect that a person is in innocent possession of a stolen or prohibited article or other item for which he or she is empowered to search. In that case the officer may stop and search the person even though there would be no power of arrest.

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

Searches authorised under Article 23B of the Public Order (Northern Ireland) Order 1987

- 2.12 Authority for a constable in uniform to stop and search under Article 23B of the Public Order (Northern Ireland) Order 1987 may be given if the authorising officer reasonably believes:
- (a) that incidents involving serious violence may take place in any locality in the officer's police area, and it is expedient to use these powers to prevent or control their occurrence, or
- (b) that persons are carrying dangerous instruments or offensive weapons without good reason in any locality in the officer's police area.
- 2.13 An authorisation under Article 23B of the Public Order (Northern Ireland) Order 1987 may only be given by an officer of the rank of inspector or above, in writing, specifying the grounds on which it was given, the locality in which the powers may be exercised and the period of time for which they are in force. The period authorised shall be no longer than appears reasonably necessary to prevent, or seek to prevent incidents of serious violence, or to deal with the problem of carrying dangerous instruments or offensive weapons. It may not exceed 24 hours. *See Notes 10-13.*
- 2.14 If an inspector gives an authorisation, he or she must, as soon as practicable, inform an officer of or above the rank of superintendent. This officer may direct that the authorisation shall be extended for a further 24 hours, if violence or the

carrying of dangerous instruments or offensive weapons has occurred, or is suspected to have occurred, and the continued use of the powers is considered necessary to prevent or deal with further such activity. That direction must also be given in writing unless it is not practicable to do so, in which case it must be recorded in writing as soon as practicable afterwards. *See Note 12.*

- 2.14A The selection of persons and vehicles under Article 23B to be stopped and, if appropriate, searched should reflect an objective assessment of the nature of the incident or weapon in question and the individuals and vehicles thought likely to be associated with that incident or those weapons. *See Notes 10 and 11.* The powers must not be used to stop and search persons and vehicles for reasons unconnected with the purpose of the authorisation. When selecting persons and vehicles to be stopped in response to a specific threat or incident, officers must take care not to discriminate unlawfully against anyone on the grounds of religious belief or political opinion, racial group, age, marital status, sexual orientation, gender or disability.
- 2.14B The driver of a vehicle which is stopped under Article 23B and any person who is searched under Article 23B are entitled to a written statement to that effect if they apply within twelve months from the day the vehicle was stopped or the person was searched. This statement is a record which states that the vehicle was stopped or (as the case may be) that the person was searched under Article 23B and it may form part of the search record or be supplied as a separate record.

Powers to require removal of face coverings

- 2.15 Article 23A of the Public Order (Northern Ireland) Order 1987 also provides a power to demand the removal of disguises. The officer exercising the power must reasonably believe that someone is wearing an item wholly or mainly for the purpose of concealing identity. There is also a power to seize such items where the officer believes that a person intends to wear them for this purpose. There is no power to stop and search for disguises. An officer may seize any such item which is discovered when exercising a power of search for something else, or which is being carried, and which the officer reasonably believes is intended to be used for concealing anyone's identity. This power can only be used if an authorisation under Article 23A or an authorisation under Article 23B of the Public Order (NI) Order 1987 is in force.
- 2.16 Authority for a constable in uniform to require the removal of disguises and to seize them under Article 23A of the Public Order (Northern Ireland) Order 1987 may be given if the authorising officer reasonably believes that activities may take place in any locality in the officer's police area that are likely to involve the commission of offences and it is expedient to use these powers to prevent or control these activities.
- 2.17 An authorisation under Article 23A of the Public Order (Northern Ireland) Order 1987 may only be given by an officer of the rank of inspector or above, in writing, specifying the grounds on which it was given, the locality in which the powers may be exercised and the period of time for which they are in force. The period authorised shall be no longer than appears reasonably necessary to prevent, or seek to prevent the commission of offences. It may not exceed 24 hours. *See Notes 10-13.*
- 2.18 If an inspector gives an authorisation, he or she must, as soon as practicable, inform an officer of or above the rank of superintendent. This officer may direct

that the authorisation shall be extended for a further 24 hours, if crimes have been committed, or are suspected to have been committed, and the continued use of the powers is considered necessary to prevent or deal with further such activity. This direction must also be given in writing at the time or as soon as practicable afterwards. *See Note 12.*

Searches under Schedule 5 to the Terrorism Prevention and Investigation Measures Act 2011

- 2.18A Paragraph 3 of Schedule 5 to the TPIM Act 2011 allows a constable to detain an individual to be searched under the following powers:
- (i) paragraph 6(2)(a) when a TPIM notice is being, or has just been, served on the individual for the purpose of ascertaining whether there is anything on the individual that contravenes measures specified in the notice;
 - (ii) paragraph 8(2)(a) in accordance with a warrant to search the individual issued by a justice of the peace in England and Wales, a sheriff in Scotland or a lay magistrate in Northern Ireland who is satisfied that a search is necessary for the purpose of determining whether an individual in respect of whom a TPIM notice is in force is complying with measures specified in the notice, see paragraph 2.20, and
 - (iii) paragraph 10 to ascertain whether an individual in respect of whom a TPIM notice is in force is in possession of anything that could be used to threaten or harm any person.
- See paragraph 2.1(e).
- 2.19 The exercise of the powers mentioned in paragraph 2.18A does not require the constable to have reasonable grounds to suspect that the individual:
- (a) has been, or is, contravening any of the measures specified in the TPIM notice or,
 - (b) has on them anything which:
 - in the case of the power in sub-paragraph (i), contravenes measures specified in the TPIM notice;
 - in the case of the power in sub-paragraph (ii) is not complying with measures specified in the TPIM notice; or
 - in the case of the power in sub-paragraph (iii), could be used to threaten or harm any person.
- 2.20 A search of an individual on warrant under the power mentioned in paragraph 2.18A(ii) must be carried out within 28 days of the issue of the warrant. The individual may be searched on one occasion only within that period, and the search must take place at a reasonable hour unless it appears that this would frustrate the purposes of the search.
- 2.21 Not used.
- 2.22 Not used.

2.23 Not used.

2.24 Not used.

2.25 Not used.

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

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

(a) section 139B of the Criminal Justice Act 1988 under which a constable may enter school premises and search the premises and any person on those premises for any bladed or pointed article or offensive weapon; and

(b) under a warrant issued under section 23(3) of the Misuse of Drugs Act 1971 to search premises for drugs or documents but only if the warrant specifically authorises the search of persons found on the premises.

(c) under a search warrant or order issued under paragraph 1, 3 or 11 of Schedule 5 to the Terrorism Act 2000 to search premises and any person found there for material likely to be of substantial value to a terrorist investigation.

2.27 Before the power under section 139B of the Criminal Justice Act 1988 may be exercised, the constable must have reasonable grounds to suspect that an offence under section 139A of the Criminal Justice Act 1988 (having a bladed or pointed article or offensive weapon on school premises) has been or is being committed. A warrant to search premises and persons found therein may be issued under section 23(3) of the Misuse of Drugs Act 1971 if there are reasonable grounds to suspect that controlled drugs or certain documents are in the possession of a person on the premises.

2.28 The powers in paragraph 2.26 do not require prior specific grounds to suspect that the person to be searched is in possession of an item for which there is an existing power to search. However, it is still necessary to ensure that the selection and treatment of those searched under these powers is based upon objective factors connected with the search of the premises, and not upon personal prejudice.

3. Conduct of searches

3.1 All stops and searches must be carried out with courtesy, consideration and respect for the person concerned. This has a significant impact on public confidence in the police. Every reasonable effort must be made to minimise the embarrassment that a person being searched may experience. *See Note 4.*

3.2 The co-operation of the person to be searched must be sought in every case, even if the person initially objects to the search. A forcible search may be made only if it has been established that the person is unwilling to co-operate or resists. Reasonable force may be used as a last resort if necessary to conduct a search or to detain a person or vehicle for the purposes of a search.

3.3 The length of time for which a person or vehicle may be detained must be

reasonable and kept to a minimum. Where the exercise of the power requires reasonable suspicion, the thoroughness and extent of a search must depend on what is suspected of being carried, and by whom. If the suspicion relates to a particular article which is seen to be slipped into a person's pocket, then, in the absence of other grounds for suspicion or an opportunity for the article to be moved elsewhere, the search must be confined to that pocket. In the case of a small article which can readily be concealed, such as a drug, and which might be concealed anywhere on the person, a more extensive search may be necessary. In the case of searches mentioned in paragraph 2.1(b) and (d), which do not require reasonable grounds for suspicion, officers may make any reasonable search to look for items for which they are empowered to search. *See Note 5.*

- 3.4 The search must be carried out at or nearby the place where the person or vehicle was first detained. *See Note 6.*
- 3.5 There is no power to require a person to remove any clothing in public other than an outer coat, jacket, headgear or gloves except under Article 23A of the Public Order (Northern Ireland) Order 1987 (which empowers a constable to require a person to remove any item worn to conceal identity). *See Notes 4 and 6.* A search in public of a person's clothing which has not been removed must be restricted to superficial examination of outer garments. This does not, however, prevent an officer from placing his or her hand inside the pockets of the outer clothing, or feeling round the inside of collars, socks and shoes if this is reasonably necessary in the circumstances to look for the object of the search or to remove and examine any item reasonably suspected to be the object of the search. For the same reasons, a person's hair may also be searched in public (see paragraphs 3.1 and 3.3).
- 3.6 Where on reasonable grounds it is considered necessary to conduct a more thorough search (e.g. by requiring a person to take off a T-shirt), this must be done out of public view, for example, in a police van unless paragraph 3.7 applies, or a police station if there is one nearby. *See Note 6.* Any search involving the removal of more than an outer coat, jacket, gloves, headgear, or any other item concealing identity, may only be made by an officer of the same sex as the person searched and may not be made in the presence of anyone of the opposite sex unless the person being searched specifically requests it. *See Annex C and Notes 4 and 7.*
- 3.7 Searches involving exposure of intimate parts of the body must not be conducted as a routine extension of a less thorough search, simply because nothing is found in the course of the initial search. Searches involving exposure of intimate parts of the body may be carried out only at a nearby police station or other nearby location which is out of public view (but not a police vehicle). These searches must be conducted in accordance with paragraph 11 of Annex A to Code C except that an intimate search mentioned in paragraph 11(f) of Annex A to Code C may not be authorised or carried out under any stop and search powers. The other provisions of Code C do not apply to the conduct and recording of searches of persons detained at police stations in the exercise of stop and search powers. *See Note 7.*

Steps to be taken prior to a search

- 3.8 Before any search of a detained person or attended vehicle takes place the officer must take reasonable steps, if not in uniform (see paragraph 3.9), to show their warrant card to the person to be searched or in charge of the vehicle to be

searched and whether or not in uniform, to give that person the following information:

(a) that they are being detained for the purposes of a search;

(b) the officer's name (except in the case of enquiries linked to the investigation of terrorism, or otherwise where the officer reasonably believes that giving their name might put them in danger, in which case a warrant or other identification number shall be given, and the name of the police station to which the officer is attached;

(c) the legal search power which is being exercised; and

(d) a clear explanation of:

- (i) the object of the search in terms of the article or articles for which there is a power to search; and
 - (ii) in the case of powers requiring reasonable suspicion (see paragraph 2.1(a)), the grounds for that suspicion; or
 - (iii) in the case of -
 - the power under Article 23B of the Public Order (Northern Ireland) Order 1987 (see paragraph 2.1(b)), the nature of the power, the authorisation and the fact that it has been given;
 - the powers under Schedule 5 to the Terrorism Prevention and Investigation Measures Act 2011 (see paragraph 2.1(e) and 2.18A):
 - the fact that a TPIM notice is in force or, (in the case of paragraph 6(2)(a)) that a TPIM notice is being served;
 - the nature of the power being exercised.
- For a search under paragraph 8 of Schedule 5, the warrant must be produced and the person provided with a copy of it.
- all other powers requiring reasonable suspicion (see paragraph 2.1(a)), the grounds for that suspicion.

(e) that they are entitled to a copy of the record of the search if one is made (see section 4 below) if they ask within 12 months from the date of the search and:

- (i) if they are not arrested and taken to a police station as a result of the search and it is practicable to make the record on the spot, that immediately after the search is completed they will be given a receipt which explains how they can obtain a copy of the full record, or
- (ii) if they are arrested and taken to a police station as a result of the search, that the record will be made at the station as part of their custody record and they will be given, if they request, a copy of their custody record which includes a record of the search as soon as practicable whilst they are at the station. See *Note 16*.

3.9 Stops and searches under the powers mentioned in paragraph 2.1(b) may be undertaken only by a constable in uniform.

- 3.10 The person should also be given information about police powers to stop and search and the individual's rights in these circumstances.
- 3.11 If the person to be searched, or in charge of a vehicle to be searched, does not appear to understand what is being said, the officer must take reasonable steps to bring the information regarding the person's rights and any relevant provisions of this Code to his or her attention. If the person is deaf or cannot understand English and is accompanied by someone, then the officer must try to establish whether that person can interpret or otherwise help the officer to give the required information.

4. Recording requirements

(a) Searches which do not result in an arrest

- 4.1 When an officer carries out a search in the exercise of any power to which this Code applies and the search does not result in the person searched or person in charge of the vehicle searched being arrested and taken to a police station, a record must be made of it electronically by the officer. A unique reference number and guidance on how to obtain a full copy of the record must be provided to the person searched unless there are exceptional circumstances which make this wholly impracticable (e.g. in situations involving public disorder or when the recording officer's presence is urgently required elsewhere). If for any reason an electronic record cannot be made or the reference number cannot be provided at the time, the person must still be provided with the advice on how they can obtain the record. If a record is to be made, the officer carrying out the search must make the record on the spot unless this is not practicable, in which case, the officer must make the record as soon as practicable after the search is completed. See *Note 16*.
- 4.2 If the record is made at the time, the person who has been searched or who is in charge of the vehicle that has been searched must be provided with a receipt which explains how they can obtain a copy of the full record.
- 4.2A An officer is not required to provide a receipt at the time if they are called to an incident of higher priority.

(c) Record of search

- 4.3 The record of a search must always include the following information:
- (i) the name of the person searched, or (if it is withheld) a description;
 - (ii) when a vehicle is searched, its registration number;
 - (iii) the date, time, and place that the person or vehicle was first detained;
 - (iv) the date, time and place the person or vehicle was searched (if different from (iii));
 - (v) the purpose of the search;
 - (vi) the grounds for making it, or in the case of a search under:
 - ~ Article 23B of the Public Order (Northern Ireland) Order 1987 (see *paragraph 2.1(b)*), the nature of the power, the authorisation and the fact that it has been given. See *Note 17*.
 - ~ Schedule 5 to the Terrorism Prevention and Investigation Measures Act 2011 (see *paragraphs 2.1(e)* and *2.18A*):

- the fact that a TPIM notice is in force or, (in the case of paragraph 6(2)(a)), that a TPIM notice is being served;
- the nature of the power, and
- paragraph 8, Schedule 5, the date the search warrant was issued, the fact that the warrant was produced and a copy of it provided and the warrant must also be endorsed by the constable executing it to state whether anything was found and whether anything was seized, and
- all other powers requiring reasonable suspicion (see paragraph 2.1(a))
- the grounds for that suspicion;

(vii) its outcome (e.g. arrest or no further action);

(viii) a note of any injury or damage to property resulting from it;

(ix) subject to paragraph 3.8 (b), the identity of the officer making the search.

See *Note 15*.

(x) a note of the ethnicity as perceived by the officer making the search, of the person searched or of the person in charge of the vehicle searched (as the case may be). See *Note 19*.

- 4.3A For the purposes of paragraph 4.3(i), there is no power to detain the person to establish his name. If the person's name cannot be established, a description of the person should be included on the record of the search.
- 4.4 Nothing in paragraph 4.3 requires the names of police officers to be shown on the search record or any other record required to be made under this code in the case of enquiries linked to the investigation of terrorism or otherwise where an officer reasonably believes that recording names might endanger the officers. In such cases the record must show the officer's warrant or other identification number and duty station.
- 4.5 A record is required for each person and each vehicle searched. However, if a person is in a vehicle and both are searched, and the object and grounds of the search are the same, only one record need be completed. If more than one person in a vehicle is searched, separate records for each search of a person must be made. If only a vehicle is searched, the ethnic background of the person in charge of the vehicle must be recorded, unless the vehicle is unattended.
- 4.6 The record of the grounds for making a search must, briefly but informatively, explain the reason for suspecting the person concerned, by reference to the person's behaviour and/or other circumstances.
- 4.7 Where officers detain an individual with a view to performing a search, but the need to search is eliminated as a result of questioning the person detained, a search should not be carried out and a record is not required. See *paragraph 2.10* and *Note 3*.
- 4.8 After searching an unattended vehicle, or anything in or on it, an officer must leave a notice in it (or on it, if things on it have been searched without opening it) recording the fact that it has been searched.
- 4.9 The notice must 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.

4.10 The vehicle must if practicable be left secure.

Recording of encounters not governed by statutory powers

4.11 There is no requirement for an officer who requests a person in a public place to account for themselves, i.e. their actions, behaviour, presence in an area or possession of anything, to make any record of the encounter or to give the person a receipt.

Notes for guidance

Officers exercising stop and search powers

- 1. This code does not affect the ability of an officer to speak to or question a person in the ordinary course of the officer's duties without detaining the person or exercising any element of compulsion. It is not the purpose of the code to prohibit such encounters between the police and the community with the co-operation of the person concerned and neither does it affect the principle that all citizens have a duty to help police officers to prevent crime and discover offenders. When a police officer is trying to discover whether, or by whom, an offence has been committed he or she may question any person from whom useful information might be obtained, subject to the restrictions imposed by Code C. A person's unwillingness to reply does not alter this entitlement, but in the absence of a power to arrest, or to detain in order to search, the person is free to leave at will and cannot be compelled to remain with the officer.*
- 2. In some circumstances preparatory questioning may be unnecessary, but in general a brief conversation or exchange will be desirable not only as a means of avoiding unsuccessful searches, but to explain the grounds for the stop/search, to gain co-operation and reduce any tension there might be surrounding the stop/search.*
- 3. Where a person is lawfully detained for the purpose of a search, but no search in the event takes place, the detention will not thereby have been rendered unlawful.*
- 4. Many people customarily cover their heads or faces for religious reasons. A police officer cannot order the removal of a head or face covering except where there is reason to believe that the item is being worn by the individual wholly or mainly for the purpose of disguising identity, not simply because it disguises identity. Where there may be religious sensitivities about ordering the removal of such an item, the officer should permit the item to be removed out of public view. Where practicable, the item should be removed in the presence of an officer of the same sex as the person and out of sight of anyone of the opposite sex.*
- 5. A search of a person in public should be completed as soon as possible.*
- 6. A person may be detained under a stop and search power at a place other than where the person was first detained, only if that place, be it a police station or*

elsewhere, is nearby. Such a place should be located within a reasonable travelling distance using whatever mode of travel (on foot or by car) is appropriate. This applies to all searches under stop and search powers, whether or not they involve the removal of clothing or exposure of intimate parts of the body (see paragraphs 3.6 and 3.7) or take place in or out of public view. It means, for example, that a search under the stop and search power in section 23 of the Misuse of Drugs Act 1971 which involves the compulsory removal of more than a person's outer coat, jacket, or gloves cannot be carried out unless a place which is both nearby the place they were first detained and out of public view, is available. If a search involves exposure of intimate parts of the body and a police station is not nearby, particular care must be taken to ensure that the location is suitable in that it enables the search to be conducted in accordance with the requirements of paragraph 11 of Annex A to Code C.

7. *A search in the street itself should be regarded as being in public view for the purposes of paragraphs 3.6 and 3.7 above, even though it may be empty at the time a search begins. Although there is no power to require a person to do so, there is nothing to prevent an officer from asking a person voluntarily to remove more than an outer coat, jacket, gloves or headgear.*
8. *Not used.*
9. *Other means of identification might include jewellery, insignias, tattoos or other features which are known to identify members of a particular gang or group.*

Authorising officers

10. *The powers under Article 23B of the Public Order (Northern Ireland) Order 1987 are separate from and additional to the normal stop and search powers which require reasonable grounds to suspect an individual of carrying an offensive weapon (or other article). Their overall purpose is to prevent and control serious violence and the widespread carrying of weapons which might lead to persons being seriously injured by disarming potential offenders in circumstances where other powers would not be sufficient. They should not therefore be used to replace or circumvent the normal powers for dealing with routine crime problems. The purpose of the powers under Article 23A of the Public Order (Northern Ireland) Order 1987 is to prevent those involved in intimidatory or violent protests using face coverings to disguise identity.*
11. *Authorisations under Article 23B of the Public Order (Northern Ireland) Order 1987 require a reasonable belief on the part of the authorising officer. This must have an objective basis, for example: intelligence or relevant information such as a history of antagonism and violence between particular groups; previous incidents of violence at, or connected with, particular events or locations; a significant increase in knifepoint robberies in a limited area; reports that individuals are regularly carrying weapons in a particular locality; or in the case of Article 23A of the Public Order (Northern Ireland) Order 1987 previous incidents of crimes being committed while wearing face coverings to conceal identity.*
12. *It is for the authorising officer to determine the period of time during which the powers mentioned in paragraph 2.1 (b) may be exercised. The officer should set the minimum period he or she considers necessary to deal with the risk of violence, the carrying of knives or offensive weapons, or terrorism. A direction to extend the period authorised under the powers mentioned in paragraph*

2.1(b) may be given only once. Thereafter further use of the powers requires a new authorisation.

13. *It is for the authorising officer to determine the geographical area in which the use of the powers is to be authorised. In doing so the officer may wish to take into account factors such as the nature and venue of the anticipated incident, the number of people who may be in the immediate area of any possible incident, their access to surrounding areas and the anticipated level of violence. The officer should not set a geographical area which is wider than that he or she believes necessary for the purpose of preventing anticipated violence, the carrying of knives or offensive weapons, acts of terrorism, or, in the case of Article 23A of the Public Order (Northern Ireland) Order 1987, the prevention of commission of offences. It is particularly important to ensure that constables exercising such powers are fully aware of where they may be used. If the area specified is smaller than the whole force area, the officer giving the authorisation should specify either the streets which form the boundary of the area or a divisional boundary within the force area.*
14. *Not used.*

Recording

15. *Where a stop and search is conducted by more than one officer the identity of all the officers engaged in the search must be recorded on the record. Nothing prevents an officer who is present but not directly involved in searching from completing the record during the course of the encounter.*
16. *Not used.*
17. *It is important for monitoring purposes to specify when the authority is given for exercising the stop and search power under Article 23B of the Public Order (Northern Ireland) Order 1987.*
18. *In situations where it is not practicable to provide a written record of the record or immediate access to an electronic copy of the record or a receipt of the search at the time (see paragraph 4.2A above), the officer should consider providing the person with details of the station to which the person may attend for a copy of the record. This may take the form of a simple business card which includes sufficient information to locate the record should the person ask for a copy, for example, the date and place of the search, a reference number or the name of the officer who carried out the search (unless paragraph 4.4 applies).*
19. *Officers should record the ethnicity of every person stopped according to the categories listed in Annex B. This should be based on the officer's own perception of the person's ethnic background.*
20. *A person who is asked to account for themselves should, if they request, be given information about how they can report their dissatisfaction about how they have been treated.*

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

This table relates to stop and search powers only. Individual statutes below may contain other police powers of entry, search and seizure.

Power	Object of Search	Extent of Search	Where Exercisable
Unlawful articles general			
1. Public Stores Act 1875, s6	HM Stores stolen or unlawfully obtained.	Persons, vehicles and vessels.	Anywhere where the constabulary powers are exercisable.
2. Firearms (Northern Ireland) Order 2004 a.53	Firearms	Persons and vehicles	A public place, or anywhere in the case of reasonable suspicion of offences of carrying firearms with criminal intent or trespassing with firearms
3. Misuse of Drugs Act 1971, s23	Controlled drugs.	Persons and vehicles.	Anywhere.
4. Customs and Excise Management Act 1979, s163	Goods: (a) on which duty has not been paid; (b) being unlawfully removed, imported or exported; (c) otherwise liable to forfeiture to HM Customs and Excise.	Vehicles and vessels only.	Anywhere.
5. Aviation Security Act 1982, s27(1)	Stolen or unlawfully obtained goods	Airport employees and vehicles carrying airport employees or aircraft or any vehicle in a cargo area whether or not carrying an	Any designated airport.

Power	Object of Search	Extent of Search	Where Exercisable
		employee.	
6. Police and Criminal Evidence (Northern Ireland) Order 1989, Article 3.	Stolen goods; articles for use in certain Theft Act offences; offensive weapons, including bladed or sharply-pointed articles (except folding pocket knives with a bladed cutting edge not exceeding 3 inches); possession of a firework in contravention of a prohibition imposed by the Explosives (Fireworks) Regulations (Northern Ireland) 2002. Criminal Damage: articles made, adapted or intended for use in destroying or damaging property.	Persons and vehicles. Persons and vehicles.	Where there is public access. Where there is public access.
7. Police and Criminal Evidence Act 1984, s6(3) (by a constable of the United Kingdom Atomic Energy Authority Constabulary in respect of property owned or controlled by British Nuclear Fuels plc	HM Stores (in the form of goods and chattels belonging to British Nuclear Fuels plc).	Persons, vehicles and vessels.	Anywhere where the constabulary powers are exercisable.
8. Crossbows (Northern Ireland) Order 1988, Article 6	Crossbows or parts of crossbows (except crossbows with a draw weight of less than 1.4 kilograms).	Persons and vehicles.	Anywhere except dwellings
9. Criminal Justice Act 1988 s139B	Offensive weapons, bladed or sharply pointed article.	Persons.	School premises.
Evidence of game and wildlife offences			
10. Poaching Prevention Act 1862, s2	Game or poaching equipment.	Persons and vehicles	A public place.
11. Game Preservation Act	Game or equipment for the destruction or taking of game.	Persons and vehicles.	Anywhere.

Power	Object of Search	Extent of Search	Where Exercisable
(Northern Ireland) 1928.s6.			
12. Fisheries Act (Northern Ireland) 1966, s178.	Fish or equipment for taking fish unlawfully.	Persons and vehicles including boats.	Anywhere.
13. Wildlife (Northern Ireland) Order 1985, Article 25.	Evidence of wildlife offences.	Persons.	Anywhere except buildings.
Other			
14. Paragraphs 6 & 8 of Schedule 5 to the Terrorism Prevention and Investigation Measures Act 2011	Anything that contravenes measures specified in a TPIM notice	Persons in respect of whom a TPIM notice is being served or is in force.	Anywhere
15. Paragraph 10 of Schedule 5 to the Terrorism Prevention and Investigation Measures Act 2011	Anything that could be used to threaten or harm any person.	Persons in respect of whom a TPIM notice is in force.	Anywhere
16. Article 23B of the Public Order (Northern Ireland) Order 1987.	Offensive weapons or dangerous instruments to prevent incidents of serious violence or to deal with the carrying of such items.	Persons and vehicles.	Anywhere within a locality authorised under subsection (1).

ANNEX B ETHNIC CLASSIFICATION CATEGORIES

A. White

B. Irish Traveller

C. Mixed

D. Indian

E. Pakistani

F. Bangladeshi

G. Other Asian

H. Black Caribbean

I. Black African

J. Black other

K. Chinese

L. Other ethnic group

ANNEX C - ESTABLISHING GENDER OF PERSONS FOR THE PURPOSE OF SEARCHING

1. Certain provisions of this and other PACE Codes explicitly state that searches and other procedures may only be carried out by, or in the presence of, persons of the same sex as the person subject to the search or other procedure. See *Note C1*.
2. All searches and procedures must be carried out with courtesy, consideration and respect for the person concerned. Police officers should show particular sensitivity when dealing with transgender individuals (including transsexual persons) and transvestite persons, see *Notes C2, C3 and C4*.

(a) Consideration

3. In law, the gender (and accordingly the sex) of an individual is their gender as registered at birth, unless they have been issued with a Gender Recognition Certificate (GRC) under the Gender Recognition Act 2004 (GRA), in which case the person's gender is their acquired gender. This means that if the acquired gender is the male gender, the person's sex becomes that of a man and, if it is the female gender, the person's sex becomes that of a woman) and they must be treated as their acquired gender.
4. When establishing whether the person concerned should be treated as being male or female for the purposes of these searches and procedures, the following approach which is designed to minimise embarrassment and secure the person's co-operation should be followed:

(a) The person must not be asked whether they have a GRC (see *paragraph 8*);

(b) If there is no doubt as to whether the person concerned should be treated as being male or female, they should be dealt with as being of that sex.

(c) If at any time (including during the search or carrying out the procedure) there is doubt as to whether the person should be treated, or continue to be treated, as being male or female:

(i) the person should be asked what gender they consider themselves to be. If they express a preference to be dealt with as a particular gender, they should be asked to indicate and confirm their preference by signing the custody record or, if a custody record has not been opened, the search record or the officer's notebook. Subject to (ii) below, the person should be treated according to their preference;

(ii) if there are grounds to doubt that the preference in (i) accurately reflects the person's predominant lifestyle, for example, if they ask to be treated as woman but documents and other information make it clear that they live predominantly as a man, or vice versa, they should be treated according to what appears to be their predominant lifestyle and not their stated preference;

(iii) If the person is unwilling to express a preference as in (i) above, efforts should be made to determine their predominant lifestyle and they should be treated as such. For example, if they appear to live predominantly as a woman, they should be treated as being female; or

(iv) if none of the above apply, the person should be dealt with according to what reasonably appears to have been their sex as registered at birth.

5. Once a decision has been made about which gender an individual is to be treated as, each officer responsible for the search or procedure should where possible be advised before the search or procedure starts of any doubts as to the person's gender and the person informed that the doubts have been disclosed. This is important so as to maintain the dignity of the person and any officers concerned.

(b) Documentation

6. The person's gender as established under *paragraph 4(c)(i) to (iv)* above must be recorded in the person's custody record, or if a custody record has not been opened, on the search record or in the officer's notebook.
7. Where the person elects which gender they consider themselves to be under *paragraph 4(b)(i)* but following *4(b)(ii)* is not treated in accordance with their preference, the reason must be recorded in the search record, in the officer's notebook or, if applicable, in the person's custody record.

(c) Disclosure of information

8. Section 22 of the GRA defines any information relating to a person's application for a GRC or to a successful applicant's gender before it became their acquired gender as 'protected information'. Nothing in this Annex is to be read as authorising or permitting any police officer or any police staff who has acquired such information when acting in their official capacity to disclose that information to any other person in contravention of the GRA. Disclosure includes making a record of 'protected information' which is read by others.

Note for Guidance

C1 Provisions to which paragraph 1 applies include:

- *In Code A; paragraph 3.6 and Note 4;*
- *In Code C; paragraph 4.1 and Annex A paragraphs 5, 6, 11 and 12 (searches, strip and intimate searches of detainees under Articles 55 and 56 of PACE);*
- *In Code D; paragraph 5.5 and Note 5F (searches, examinations and photographing of detainees under Article 55A of PACE) and paragraph 6.9 (removal of clothing);*
- *In Code H; paragraph 4.1 and Annex A paragraphs 6, 7 and 12 (searches, strip and intimate searches under Articles 55 and 56 of PACE of persons arrested under section 41 of the Terrorism Act 2000).*

C2 While there is no agreed definition of transgender (or trans), it is generally used as an umbrella term to describe people whose gender identity (self-identification as being a woman, man, neither or both) differs from the sex they were registered as at birth. The term includes, but is not limited to, transsexual people.

C3 Transsexual means a person who is proposing to undergo, is undergoing or has undergone a process (or part of a process) for the purpose of gender reassignment), by changing physiological or other attributes of their sex. This includes aspects of gender such as dress and title. It would apply to a woman making the transition to being a man and a man making the transition to being a

woman, as well as to a person who has only just started out on the process of gender reassignment and to a person who has completed the process. Both would share the characteristic of gender reassignment with each having the characteristics of one sex, but with certain characteristics of the other sex.

C4 *Transvestite means a person of one gender who dresses in the clothes of a person of the opposite gender. However, a transvestite does not live permanently in the gender opposite to their birth sex.*

C5 *The Chief Constable is responsible for providing corresponding operational guidance and instructions for the deployment of transgender officers and staff under his direction and control to duties which involve carrying out, or being present at, any of the searches and procedures described in paragraph 1. The guidance and instructions must comply with Equality legislation and should therefore complement the approach in this Annex.*