

TERRORISM ACT 2000

**CODE OF PRACTICE (ENGLAND, WALES AND SCOTLAND) FOR THE
AUTHORISATION AND EXERCISE OF STOP AND SEARCH POWERS RELATING TO
SECTION 47A OF SCHEDULE 6B TO THE TERRORISM ACT 2000**

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CODE OF PRACTICE

TERRORISM ACT 2000 (ISSUED UNDER S47B AS ENACTED BY THE TERRORISM ACT 2000 (REMEDIAL) ORDER 2011

CODE FOR THE AUTHORISATION AND EXERCISE OF STOP AND SEARCH POWERS IN ENGLAND, WALES AND SCOTLAND RELATING TO SECTION 47A OF SCHEDULE 6B TO THE TERRORISM ACT 2000

Commencement – Transitional Arrangements

This Code applies to the authorisation and exercise of the powers contained in Section 47A and Schedule 6B to the Terrorism Act 2000 (as amended by the Terrorism Act 2000 (Remedial) Order 2011), after 00:00:01 hours on March 18th 2011.

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1. Introduction

1.1. The Purpose of this Code is:

1.1.1. To set out the basic principles that underpin the powers of a senior police officer to make an authorisation under section 47A of and Schedule 6B to the Terrorism Act 2000, and of police constables to search a person or vehicle under those provisions.

1.1.2. To reflect that these powers entirely replace those previously found in sections 44-47 of the 2000 Act and are not simply a modification of those provisions. As such they carry different criteria for both authorisation and use.

1.1.3. To provide clarity that the threshold for making an authorisation is higher under the new powers and the way in which the powers may be exercised is also different. There is far greater circumscription in the use of these powers and the manner in which these powers are to be implemented by the police. Section 47A powers should only be authorised where other powers or measures are insufficient to deal with the threat and, even where authorised, officers should still consider whether section 47A powers are the most appropriate to use.

1.1.4. To promote the fundamental principles to be observed by the police and to preserve the effectiveness of, and public confidence in, the use of police powers to stop and search. If these fundamental principles are not observed, public confidence in the use of these powers to stop and search may be affected. Failure to use the powers in the proper manner also reduces their effectiveness. Properly used, stop and search can play an important role in preventing acts of terrorism and in bringing terrorists to justice.

1.1.5. To ensure that the intrusion on the liberty of the person stopped and searched is as limited as possible and to clarify that detention for the purposes of a search should take place at or near the location of the stop and last only as long as necessary.

1.1.6. To set out that those using the 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: ensuring the safety of the public.

1.1.7. To reiterate guidance found in PACE Code A that officers must not search a person, even with his or her consent, where no power to search is applicable¹. Even where a person is prepared to submit to a search voluntarily, the person must not be searched unless the necessary legal power exists, and the search must be in accordance with the relevant power and the provisions of this Code. The only exception, where an officer does not require a specific power, applies to searches of persons entering sports grounds or other premises carried out with their consent given as a condition of entry.

¹ This does not affect the position in Scotland where there can be voluntary compliance with a search in terms of Scottish common law.

1.2. Basic application of this Code:

1.2.1. This code of practice comes into effect on 18 March 2011.

1.2.2. This code of practice is issued under section 47B of the Terrorism Act 2000².

1.2.3. The effect of this code is set out in section 47C of the Terrorism Act 2000: constables must have regard to the code and the code is admissible in criminal or civil proceedings (although a breach of the code itself does not make a person liable to any such proceedings).

1.2.4. Powers to stop and search must be used fairly, responsibly, and in accordance with the Equality Act 2010.

1.2.5. Chief Constables and police authorities have a duty to have regard to this code of practice when discharging a function to which this code relates. This code must be followed unless there is good reason not to do so, in which case the decision not to follow this code should be recorded in writing.

1.2.6. This code of practice must be readily available at all police stations for consultation by police officers, police staff, detained persons and members of the public.

1.2.7. This code of practice applies to all police forces in England and Wales and Scotland, including the British Transport Police, the Ministry of Defence Police and the Civil Nuclear Constabulary. It does not apply to police forces in Northern Ireland – a separate code governs those police forces.

1.2.8. References to police authorities refer only to police authorities in England & Wales, the British Transport Police Authority, Civil Nuclear Police Authority and Ministry of Defence Police Committee.

1.2.9. References in this Code to the information required in an authorisation refer to a written authorisation or written confirmation of an oral authorisation.

2. Scope of this code:

2.1. Powers of Stop and Search:

2.1.1. This Code concerns the authorisation and use of powers to stop and search in specified areas or places and specified times contained in section 47A and Schedule 6B to the Terrorism Act 2000, as brought into effect by the Terrorism Act 2000 (Remedial) Order 2011 (S.I. 2011/631).

² The Terrorism Act 2000 (Remedial Order) 2011 makes non-textual amendments to the Terrorism Act 2000. It provides that the 2000 Act is to have effect as if sections 44 to 47 of that Act are repealed and as if sections 47A to 47C and Schedule 6B were inserted into that Act.

2.1.2. Section 47A of the Terrorism Act 2000 and Schedule 6B are reproduced at Annex A.

2.2. Definition of Terrorism:

2.2.1. Terrorism is defined by section 1 of the Terrorism Act 2000. In summary the term “terrorism” in the 2000 Act means the use or threat of action where:

- the action used or threatened:
 - involves serious violence against a person or serious damage to property
 - endangers a person’s life, other than that of the person committing the action
 - creates a serious risk to the health or safety of the public or a section of the public, or
 - is designed seriously to interfere with or seriously to disrupt an electronic system,
- the use of threat is designed to influence the government or an international governmental organisation, or intimidate the public or a section of the public, and
- the use or threat is made for the purpose of advancing a political, religious, racial or ideological cause.

3. Requirements

3.1. Meeting the test for making an authorisation:

3.1.1. The powers to stop and search under section 47A represent a significant divergence from the usual requirement to have reasonable suspicion when exercising stop and search powers. The powers are therefore only exercisable in an area where and during a period when an authorisation has been given by a senior officer. The test for authorising section 47A powers is that the person giving it: *must reasonably suspect that an act of terrorism will take place and considers that the powers are necessary to prevent such an act and that the area(s) or place(s) specified in the authorisation are no greater than is necessary and the duration of the authorisation is no longer than is necessary to prevent such an act.*

3.1.2. An authorisation under section 47A may only be made by an officer of ACPO or ACPOS rank (i.e. at least the rank of assistant chief constable or, in the case of the Metropolitan and City of London Police, a commander). Authorising officers must be either substantive or on temporary promotion to the qualifying rank. Officers who are acting in the rank may not give authorisations.

3.1.3. The Secretary of State must be notified of any authorisation and must confirm any authorisation specified to exceed 48 hours, if it is to remain in force beyond 48 hours.

3.1.4. An authorisation may only be given where there is intelligence or circumstances which lead the authorising officer to reasonably suspect that an act of terrorism will take place. The authorising officer must also be satisfied that the powers are ‘necessary’ to

prevent such an act of terrorism. This will involve an assessment that other powers are not sufficient to deal with the situation. Authorising officers should always consider whether it is appropriate to authorise the powers in the particular circumstances, with regard to:

- The safety of the public
- The safety of officers
- The necessity of the powers in relation to the threat

3.1.5. The following may be taken into account when deciding whether to give an authorisation, but should **not** form the sole basis of such a decision:

- a) There is a general high threat from terrorism.
- b) A particular site or event is deemed to be “high risk” or vulnerable.

3.1.6. An authorisation may not be given on the basis that:

- a) The use of the powers provides public reassurance.
- b) The powers are a useful deterrent or intelligence-gathering tool.

3.1.7. An authorisation should not provide for the powers to be used other than where they are considered necessary. Authorisations must be as limited as possible and linked to addressing the suspected act of terrorism. In determining the area(s) or place(s) it is necessary to specify in the authorisation, an authorising officer may need to consider the possibility that terrorists may change their method or target of attack, or that there are a number of potential targets. It will be necessary to consider what the appropriate operational response to the intelligence is (e.g. whether to conduct stop and search around suspected target sites or areas or routes which could allow the police to intercept a terrorist or vehicle). However, any authorisations must be as limited as possible and based on an assessment of the existing intelligence.

3.1.8. One authorisation may be given which encompasses a number of different places or areas within a police force area (whether those are included in response to the same or different threats). The authorisation must set out the necessity for including each of these areas or places and the necessity for the length of time for which the authorisation lasts in respect of each area or place.

3.1.9. A new authorisation should be given if there is a significant change in the nature of the particular threat (or the authorising officer’s understanding of it) which formed the basis of an existing authorisation. And in such circumstances it will be appropriate to cancel the earlier authorisation.

3.1.10. The authorisation should also include details of how the exercise of the powers is necessary to prevent the act of terrorism. This means an explanation of how the authorisation will counter the threat i.e. why the stopping and searching of individuals and/or vehicles without suspicion is necessary to prevent the suspected act of terrorism. And the consideration of necessity will also involve an assessment of why other measures (in particular the stop and search powers in section 43 of the 2000 Act) are not sufficient to address the threat.

3.1.11. If during the currency of an authorisation, the authorising officer no longer reasonably suspects that an act of terrorism of the description given in the authorisation will

take place or no longer considers that the powers are necessary to prevent such an act, the authorising officer must cancel the authorisation immediately and inform the Secretary of State.

3.1.12. If, during the currency of an authorisation, the authorising officer believes that the duration or geographical extent of the authorisation is no longer necessary for the prevention of such an act of terrorism, he must substitute a shorter period, or more restricted geographical area. In that instance, the officer must inform the Secretary of State but the Secretary of State need not confirm such changes.

3.2. Information in Support of an Authorisation

3.2.1. Authorisations should where practicable, be given in writing. Where an authorisation is given orally, it should be confirmed in writing as soon as possible after it is given. Written authorisations and written confirmation of oral authorisations should include the information set out in this section and be provided on the form in annex C.

3.2.2. **Intelligence Picture:** The authorising officer should provide a detailed account of the intelligence which has given rise to their reasonable suspicion that an act of terrorism will take place. This should include classified material where it exists, which should be provided to the Secretary of State, with the authorisation, by a secure means of communication. References to classified reporting may be used instead of verbatim reports or quotes, but the reporting referenced must have been considered by the authorising officer in making the authorisation, and must be available to the Secretary of State when considering whether to confirm an authorisation.

3.2.3. **Geographical Extent:** Detailed information should be provided to identify the geographical area(s) or place(s) covered by the authorisation. Where possible, maps of the authorised area should be included. The area authorised should be no wider than necessary. Authorisations which cover entire force areas are not justifiable under section 47A and Schedule 6B, unless there are exceptional circumstances which support such an authorisation.³

3.2.4. If an authorisation is one which covers a similar geographical area to one which immediately preceded it, information should be provided as to how the intelligence has changed since the previous authorisation was given, or if it has not changed, that it has been reassessed in the process of deciding on giving the new authorisation, and that it remains pertinent, and why

3.2.5. **Duration:** The **maximum** period for an authorisation is 14 days. An authorisation should be given for no longer than necessary and should not be made for the maximum period unless it is necessary based on intelligence about the specified threat. Justification should be provided for the length of an authorisation, setting out why the intelligence supports the amount of time authorised. If an authorisation is one which is similar to another immediately preceding it, information should be provided as to why a new authorisation is justified and why the period of the initial authorisation was not sufficient.

³ Force wide authorisations may be justifiable in respect of City of London Police, purely because of the size of the force area. However, the geographical area should still be no greater than necessary.

Where different areas or places are specified within one authorisation, different time periods may be specified in relation to each of these areas or places – indeed the time period necessary for each will need to be considered and justified.

3.2.6. Briefing Provided: Information should be provided which demonstrates that all officers involved in exercising section 47A powers receive appropriate briefing in the use of the powers, including the provisions of the this Code, and the reason for the use of the powers on each relevant occasion (*see section 4.2*).

3.2.7. Tactical Deployment: The authorising officer should provide information about how the powers will be used and why. This may include the use of vehicle checkpoints, stops and searches of individuals entering or leaving particular sites such as rail stations, sports stadiums etc (depending on the nature of the threat and the place(s) and area(s) specified). The authorising officer should indicate whether officers will be instructed to conduct stops and searches on the basis of particular indicators (e.g. behavioural indicators, types of items carried or clothes worn, types of vehicles etc), or whether the powers will be exercised on a random basis, or exercised using a combination of these tactics. If the powers are to be exercised on a random basis, the authorising officer should indicate why this is necessary, including why searches based on particular indicators are not appropriate, and should set out the parameters of the stop and search operation.

3.3. Successive or Replacement Authorisations

3.3.1. Once an authorisation is coming to an end, a new authorisation may be given. However, authorising officers should remember that the powers under sections 44 to 46 of the Terrorism Act 2000, under which authorisations were made by some forces on a virtually indefinite basis, have been repealed. 'Rolling' authorisations are not permitted under the powers in section 47A of and Schedule 6B to the Terrorism Act 2000.

3.3.2. A new authorisation covering the same or substantially the same areas or places as a previous authorisation may be given if the intelligence which informed the initial authorisation has been subject to fresh assessment and the officer giving the authorisation is satisfied that the test for authorisation is still met on the basis of that assessment. Where a successive authorisation is given, it may be given before the expiry of the existing authorisation (*see paragraph 3.4.3*), but that existing authorisation should be cancelled.

3.3.3. In the exceptional circumstances where a new authorisation is given in respect of a different threat during the currency of an existing authorisation in that force area, that existing authorisation need not be cancelled if it continues to be necessary.

3.4. Information for Authorising Officers

3.4.1. Authorising officers should always consider whether giving an authorisation under section 47A is the most appropriate power to use in the circumstances.

3.4.2. An authorisation may be given orally or in writing. If given orally, the authorisation must be confirmed in writing as soon as possible. All authorisations must include the time and date they were given and the time or date of expiry (or, times or dates where more

than one area is authorised and where applicable). This must be no later than 14 days from the date on which the authorisation was given (although the maximum 14 days may only be authorised where necessary to address the particular threat (see *paragraph 3.2.5*). The maximum 14 day period should not be seen as the 'norm' – it is a maximum. An authorisation must specify an end time no later than 23.59hrs on the 14th day after it was given (or if only the date is given, that date must be the 14th day – and the time will be taken as 23:59hrs on that date):

- For example, if an authorisation is made at 08.00hrs on 1st November, the specified end time must be no later than 23.59hrs on 14th November.

3.4.3. Authorisations begin at the point at which they are signed, or when they are given orally by the authorising officer. The written authorisation, or written confirmation of an oral authorisation, must state the time at which the authorising officer gave it. A new authorisation covering a similar area as an existing authorisation may be given before the expiry of the previous one if necessary, to avoid the need to give the subsequent authorisation at the exact time the existing one expires (see *paragraphs 3.3.1. to 3.3.2.*).

3.4.4. When a section 47A authorisation has been given, the authorising officer should ensure that officers who will take part in any subsequent stop and search operations are briefed on the fact of the authorisation, its intended use and on the provisions on section 47A of and Schedule 6B to the Terrorism Act 2000 and the provisions of this Code. Officers should also be briefed on the availability of other powers and the circumstances in which these may be more appropriate (see *paragraph 4.1.1 and section 4.2*).

3.4.5. In terms of the requirement to inform the Secretary of State of each authorisation and the requirement for an authorisation to be confirmed by the Secretary of State if it is to last beyond 48 hours, the relevant Secretary of State is the Home Secretary.

3.5. Confirmation within the Home Office

3.5.1. Where practicable, an authorising officer should inform the Home Office that he or she intends to give an authorisation and provide a draft of that authorisation before it is given.

3.5.2. The authorising officer must inform the Secretary of State as soon as reasonably practicable once an authorisation under section 47A of the Terrorism Act 2000 has been given. In practice, the police force should aim to have provided the written authorisation to the Home Office within 2 hours of an authorisation being given.

3.5.3. Authorisations remain lawful for up to 48 hours without Secretary of State approval. If the authorisation is not confirmed within a forty-eight hour period, it ceases to have effect at the end of the 48 hours. If confirmed, the authorisation remains in effect until the expiry time specified in the authorisation by the authorising officer (or an earlier time subsequently substituted by the Secretary of State or a senior officer) or until it is cancelled by a senior officer or by the Secretary of State.

3.6. Notification of Other Police Forces and the Police Authority:

3.6.1. Home Office and Scottish forces should notify any non-Home Office force when an authorisation covers areas for which both forces have a responsibility (i.e. British Transport Police, Ministry of Defence Police or Civil Nuclear Constabulary). Similarly, where an authorisation is given by a senior officer in the British Transport Police, the Ministry of Defence Police or the Civil Nuclear Constabulary, the authorising officer should notify the Home Office police force(s) which has responsibility for the police area where the authorisation is given. The authorising officer should also notify their police authority⁴. The authorisation provided to the Home Secretary should include confirmation that both such notifications (to other police forces and to the relevant police authority) have taken place.

3.7. Short-Term Authorisation – Under Forty-Eight Hours

3.7.1. In the event an authorisation for the use of section 47A powers is given for a period of less than forty-eight hours the authorising officer must inform the Secretary of State of the authorisation. However, there is no requirement for Secretary of State to confirm the authorisation. She does however have the power to cancel such an authorisation.

3.7.2 Where practicable, the authorising officer should inform the Secretary of State that he intends to make a short term authorisation in advance of doing so.

3.7.3. The test for a short term authorisation is the same as an authorisation of longer duration. 'Rolling' short term authorisations are not permitted.

3.8. Internal Waters

3.8.1. For the purposes of the Terrorism Act 2000, the term 'vehicle' includes any vessel or hovercraft. And the term 'driver' includes the captain or any person in control of the vehicle, or any member of its crew⁵.

3.8.2. Section 47A authorisations can specify any place or area within a police force area. Police force areas cover inland waters such as lakes, reservoirs and rivers and extend to the low water line at the coast. Police force areas do not cover the sea below the low water line.

3.8.3. Internal waters are defined in detail by the United Nations Convention on the Law of the Sea (UNCLOS); but are typically bays, the estuaries of large rivers and the sea near larger islands. Further information on the extent of internal waters can be obtained by contacting police marine units or the Law of the Sea Division of the United Kingdom Hydrographic Office (UKHO), by email at los@ukho.gov.uk or telephone: 01823 337 900. A map indicating the extent of internal waters can be found on their website by following the links to UK Territorial Sea Limits at <http://www.ukho.gov.uk>.

⁴ The Ministry of Defence Police should notify the MoD Police Committee.

⁵ The term 'vehicle' also includes an aircraft and a train, and the term 'driver' includes a pilot or any person in control of the aircraft or any member of the crew and any member of the train's crew.

3.8.4. A section 47A authorisation can cover any internal waters adjacent to the area specified in the authorisation.

3.8.5. Section 47A powers cannot be authorised in territorial seas that are not internal waters. If officers need to stop and search a vessel in UK territorial waters then other powers should be used.

4. Exercising Stop and Search Powers under section 47A

4.1. General Use

4.1.1 When exercising section 47A powers, officers 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 officer's briefing) or the selection of individuals or vehicles at random within the parameters set out in the authorisation (for example, the stopping of 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, constables should still consider whether powers requiring reasonable suspicion are more appropriate and should only use the powers conferred by a section 47A authorisation, if they are satisfied that they cannot meet a threshold of reasonable suspicion sufficient to use other police powers.

4.1.2. Searches conducted under section 47A may be carried out only for the purpose of discovering whether there is anything that may constitute evidence that the vehicle being searched is being used for the purposes of terrorism, or the individual being searched is a terrorist⁶. The search can therefore only be carried out to look for anything that would link the vehicle or the person to terrorism.

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

- **Deciding which power to use** – If a section 47A authorisation is in place, the powers conferred by that authorisation may be used as set out in paragraph 4.1.1. above. However, if there is a reasonable suspicion that a person is a terrorist, then powers requiring reasonable suspicion in section 43 of the Terrorism Act 2000 should be used as appropriate instead.
- **Selecting an individual or vehicle using indicators:**
 - a. **Geographical Extent** – What are the geographical limits of the authorisation and what are the parameters within which the briefing allows stops and searches to be conducted?

⁶ A "terrorist" in the context of these powers means a person within the meaning of section 40(1)(b) of the Terrorism Act 2000 (i.e. a person who is or has been concerned in the commission, preparation or instigation of acts of terrorism).

- 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?
- **Selecting individuals ‘at random’** – what are the geographical and other parameters of the operation as set out in the authorisation?
 - **Explanation** – officers should be reminded of the need to explain to people why they or their vehicles are being searched.

4.1.3. A constable exercising the power conferred by an authorisation under section 47A may not require a person to remove any clothing in public except for headgear, footwear, an outer coat, a jacket or gloves. Officers should be aware of the cultural sensitivities that may be involved in the removal of headgear.

4.2. Briefing and Tasking

4.2.1 Officers should use the information provided in a briefing to influence their decision to stop and search an individual. Officers should also be fully briefed on and aware of the differences between searches under sections 43 and 47A of the Terrorism Act 2000, and the circumstances in which it is appropriate to use these powers.

4.2.2. The stop and search powers under section 47A of the Terrorism Act 2000 should only be used by officers who have been briefed about their use.

4.2.3. Officers should be reminded that other powers of stop and search may be more appropriate to use.

4.2.4. Officers should be reminded of the need to record information and provide anyone who is stopped and searched, or whose vehicle is stopped and searched, with written confirmation that the stop and search took place and details of the power used. Accurate recording of information is essential in order to monitor the use of the powers, safeguard against misuse and provide individuals with information about the powers which have been used (see sections 5.3 to 5.4).

4.2.5. The briefing should make officers aware of relevant current information and intelligence including potential threats to locations. Briefings should be as comprehensive as possible in order to ensure officers understand the nature and justification of the operation (which will in turn help officers to understand what evidence they are looking for in the course of a search), while recognising that it may not be possible or appropriate to communicate highly sensitive intelligence to all officers.

4.2.6. Officers should be reminded of the grounds for exercising the powers i.e. only for the purpose of discovering whether there is anything that may constitute evidence that the

vehicle being searched is being used for the purposes of terrorism, or the individual being searched is a terrorist. The purpose of the search must therefore be to look for items which connect the vehicle or individual being searched to terrorism, rather than generally for items which could be used (e.g. by another individual in different circumstances) in connection with terrorism.⁷

4.2.7. Briefings should also provide officers with a form of words that they can use when explaining the use of stop and search powers under section 47A of the Terrorism Act 2000. Officers should be reminded at the briefing of the importance of providing the public with as much information about why the stop and search is being undertaken. The following list can help officers to explain the use of the powers when dealing with the public:

- The power that is being used and the fact that an authorisation is in place
- That the powers conferred by section 47A can be exercised without reasonable suspicion;
- What the operation is seeking to do, e.g., to prevent terrorist activity in response to a specific threat;
- Why the person or vehicle was selected to be searched;
- What entitlements the person has.

4.2.8. When searching someone who does not appear to speak or understand English, officers must take reasonable steps to bring information regarding the person's rights to their attention (see *paragraph 5.2.1*). In some situations forces should consider having information leaflets produced in languages other than English.

4.2.9. It may also be useful to issue officers with an aide-memoire of search powers in relation to terrorism.

4.2.10. In order to demonstrate that the powers are used appropriately and proportionately, the briefing process must be robust and auditable. All officers involved in the process should be reminded that they are fully accountable in law for their own actions.

4.2.11. For further information on briefing, see ACPO (2006) Guidance on the National Briefing Model.

4.2.12. Officers should be given clear instructions about where, when and how they should use their powers. If a section 47A authorisation is in place, officers should be clearly tasked so that the power is used appropriately and proportionately. For further information see ACPO (2006) Practice Advice on Tasking and Co-ordination.

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

⁷ Section 45 of the Terrorism Act 2000 (which is no longer applicable) specified that the purpose of the search under the repealed powers was to search for articles of a kind which could be used in connection with terrorism. Officers should note the different purpose of the search under section 47A.

4.3. Avoiding Discrimination

4.3.1. The Equality Act 2010 makes it unlawful for police officers to discriminate against, harass or victimise any person on the grounds of age, disability, gender reassignment, race, religion or belief, sex, sexual orientation, marriage or civil partnership, pregnancy or maternity in the discharge of their powers. When police forces are carrying out their functions they also have a duty to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation, to advance equality of opportunity and to foster good relations.

4.3.2. The intrusion on the liberty of the person stopped or searched must be as limited as possible and detention for the purposes of a search must take place at or near the location of the stop and last only as long as necessary.

4.3.3. Racial or religious profiling is the use of racial, ethnic, religious or other stereotypes, rather than individual behaviour or specific intelligence, as a basis for making operational or investigative decisions about who may be involved in criminal activity.

4.3.4. Officers should take care to avoid any form of racial or religious profiling when selecting people to search under section 47A powers. Profiling in this way may amount to an act of unlawful discrimination, as would selecting individuals for a search on the grounds of any of the other protected characteristics listed in paragraph 4.3.1. Profiling people from certain ethnicities or religious backgrounds may also lose the confidence of communities.

4.3.5. Great care should be taken to ensure that the selection of people is not based solely on ethnic background, perceived religion or other protected characteristic. A person's appearance or ethnic background will sometimes form part of a potential suspect's description, but a decision to search a person under powers conferred by section 47A should be made only if such a description is available.

4.3.6. Following the failed attacks on the London Underground on 21 July 2005, the approximate age and visible ethnicity of the suspects were quickly identified but little else was known about them. In similar circumstances it may be appropriate to focus section 47A searches on people matching the descriptions of the suspects.

4.3.7. Terrorists can come from any background; there is no profile for what a terrorist looks like. In recent years, criminal acts motivated by international terrorism and aimed against people in the United Kingdom have been carried out or attempted by White, Black and Asian British citizens.

4.4. Health and Safety

4.4.1. When undertaking any search, officers should always consider their own safety and the health and safety of others. Officers should have an appropriate level of personal safety training and be in possession of personal protective equipment. Officers carrying out searches should use approved tactics to keep themselves and the public safe. For further information on personal safety training, see (forthcoming) ACPO Guidance on Personal Safety Training.

4.4.2. If, during the course of a stop and search there is a suspicion that a person is in possession of a hazardous device or substance, an officer should immediately request the assistance of officers appropriately trained and equipped to deal with the situation. For further information, refer to local force policy and the ACPO 2009 Manual of Guidance on the Management, Command and Deployment of Armed Officers.

4.5. Photography/film

4.5.1. There has been widespread concern amongst photographers and journalists about the use of stop and search powers in relation to photography. It is important that police officers are aware, in exercising their counter-terrorism powers, that:

- (a) members of the public and media do not need a permit to film or photograph in public places;
- (b) it is not an offence for a member of the public or journalist to take photographs/film of a public building;
- (c) the police have no power to stop the filming or photographing of incidents or police personnel, and

4.5.2. Police officers can under section 47A stop and search someone taking photographs/film within an authorised area just as they can stop and search any other member of the public in the proper exercise of their discretion in accordance with the legislation and provisions of this Code (see *paragraph 4.1.3.*). But an authorisation itself does not prohibit the taking of photographs or digital images.

4.5.3. Further guidance on the use of counter-terrorism powers and photography can be found on the Home Office, ACPO and NPIA websites.

4.5.4. On the rare occasion that an officer reasonably suspects that photographs/film are being taken as part of hostile terrorist reconnaissance, a search under section 43(1) of the Terrorism Act 2000 or an arrest should be considered. Whilst terrorists may undertake hostile reconnaissance as part of their planning and this could entail the use of a camera or video equipment, it is important that police officers do not automatically consider photography/filming as suspicious behaviour.

4.5.5. Film and memory cards may be seized as part of the search if the officer reasonably suspects they are evidence that the person is a terrorist, or a vehicle is being used for the purposes of terrorism, but officers do not have a legal power to delete images or destroy film. Cameras and other devices should be left in the state they were found and forwarded to appropriately trained staff for forensic examination. The person being searched should never be asked or allowed to turn the device on or off because of the danger of evidence being lost or damaged.

4.5.6. Seizures of cameras etc. may only be made, following a stop and search, where the officer reasonably suspects that they constitute evidence that the person is a terrorist or that the vehicle is being used for the purposes of terrorism as the case may be.

4.6. Seizure of Items

4.6.1. An officer may seize and retain anything which he or she discovers in the course of a search and reasonably suspects may constitute evidence that the person concerned is a terrorist within the meaning of section 40(1)(b) of the Terrorism Act 2000 or the vehicle concerned is being used for the purposes of terrorism.

4.6.2. Anything seized may be retained for as long as necessary in all the circumstances. This includes retention for use as evidence at a trial for an offence.

4.6.3. A record should be made of any item seized or retained and made available with a copy of the record of the stop and search (see sections 5.3 and 5.4). If the reasonable suspicion referred to in paragraph 4.6.1. ceases to apply, the item should be returned to the individual from whom it was seized, or the person in charge of the vehicle from which it was seized unless there are other grounds for retaining it (e.g. in respect of the investigation of a separate offence). If there appears to be a dispute over the ownership of the article, it may be retained for as long as necessary to determine the lawful owner.

5. General

5.1. Conduct of stops and searches

5.1.1. All stops and searches must be carried out with courtesy, consideration and respect for the person concerned. Individuals who understand the reason for being stopped and searched are more likely to have a positive experience of an encounter. 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. 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.

5.1.2. The length of time for which a person or vehicle may be detained must be reasonable and kept to a minimum. The search must be carried out at or near the place where the person or vehicle was first stopped. A person or vehicle may be detained under the stop and search powers at a place other than where the person or vehicle was first stopped, 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 vehicle) is appropriate.

5.2 Steps to be taken prior to a search

5.2.1 Before any search of a detained person or attended vehicle takes place the officer must take reasonable steps to give their identification number and name of police station (see paragraph 5.4.4) to the person to be searched or to the person in charge of the vehicle to be searched and to give that person the following information:

- (a) that they are being detained for the purposes of a search
- (b) the legal search power which is being exercised; and
- (c) a clear explanation of:
 - (i) the object of the search (i.e. to search for evidence that the person is a terrorist or that a vehicle is being used for the purposes of terrorism); and,
 - (ii) the nature of the powers conferred by section 47A, the fact an authorisation has been given and the reason the person has been selected for a stop and search.
- (d) that 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 (subject to being called to an incident of higher priority (*see paragraphs 5.3.1. to 5.3.3.*), if they request, either:
 - i. a copy of the record, or
 - ii. a receipt which explains how they can obtain a copy of the full record or access to an electronic copy of the record.⁸
- (e) 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.

5.2.2. A person who is not provided with an immediate copy of a stop and search record may request a copy within 3 months of being stopped and searched. In addition a person is also entitled, on application, to a written statement that they were stopped by virtue of the powers conferred by section 47A, if requested within 12 months of the stop taking place (*see paragraph 5.4.3.*).

5.2.3. If the person to be searched, or person in charge of a vehicle to be searched, does not appear to understand what is being said, or there is any doubt about the person's ability to understand English, the officer must take reasonable steps to bring information regarding the person's rights to his or her attention. If the person is deaf or cannot understand English and is accompanied by someone, then the officer may try to establish whether that person can interpret or otherwise help the officer to give the required information. This does not preclude an officer from conducting a search once he or she has taken reasonable steps to explain the person's rights.

⁸ A receipt may take the form of a simple business card which includes sufficient information to locate the record should the person ask for copy, for example, the date and place of the search or a reference number.

5.3. Recording Requirements

Searches which do not result in an arrest

5.3.1. When an officer carries out a search in the exercise of powers conferred by section 47A 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 at the time, electronically or on paper, unless there are circumstances which make this wholly impracticable (see *paragraph 5.2.1(d) and section 5.3.3*). If a record is not made at the time of the stop and search, the officer must make the record as soon as practicable after the search is completed. There may be situations in which it is not practicable to obtain the information necessary to complete a record, but the officer should make every reasonable effort to do so. If it is not possible to complete a record in full, an officer 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 the officer's identification number.

5.3.2. If the record is made at the time, the person who has been searched or who is in charge of the vehicle that has been searched must be asked if they want a copy of the record and if they do, they must (*subject to paragraph 5.3.3.*) be given immediately, either:

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

5.3.3. An officer is not required to provide a copy of the full record or a receipt at the time if they are called to an incident of higher priority.

5.3.4. In situations where it is not practicable to provide a written copy of the record or immediate access to an electronic copy of the record or a receipt at the time, the officer should give the person details of the police station at which they may request a copy of the record.

Searches which result in an arrest

5.3.5. 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. The custody officer must then ensure that the person is asked if they want a copy of the custody record and if they do, that they are given a copy as soon as practicable.

5.4. Record of search

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

- (a) A note of the self defined ethnicity, and, if different, the ethnicity as perceived by the officer making the search, of the person searched or of the person in charge of the vehicle searched (as the case may be); (see *paragraph 5.4.2.*)

- (b) The date, time and place the person or vehicle was searched;
- (c) The object of the search;
- (d) the nature of the powers under section 47A, the fact an authorisation has been given and the reason the person or vehicle was selected for the search;
- (e) the officer's warrant number or other identification number (see *paragraph 5.4.4*)

5.4.2 Officers should record the self-defined ethnicity of every person stopped according to the categories used in the 2001 census question listed at Annex B. The person should be asked to select one of the five main categories representing broad ethnic groups and then a more specific cultural background from within this group. An additional "Not stated" box is available but should not be offered to respondents explicitly. Officers should be aware and explain to members of the public, especially where concerns are raised, that this information is required to obtain a true picture of stop and search activity and to help improve ethnic monitoring, eliminate any discriminatory practice, and promote effective use of the powers. If the person gives what appears to the officer to be an "incorrect" answer (e.g. a person who appears to be white states that they are black), the officer should record the response that has been given and then record their own perception of the person's ethnic background by using the PNC classification system.

5.4.3. 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. An officer 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 (see *paragraphs 5.2.1(d) and 5.2.2*) or if it otherwise required.

5.4.4. The names of police officers are not required to be shown on the search record in the case of operations linked to the investigation of terrorism or otherwise where an officer reasonably believes that recording names might endanger the officers. In such cases (including in relation to section 47A searches) the record must show the officers' warrant or other identification number and duty station.

5.4.5. A record is required for each person and each vehicle searched. However, if a person is in a vehicle and both are searched, and the object and grounds of the search are the same, only one record need be completed. If more than one person in a vehicle is searched, separate records for each search of a person must be made. If only a vehicle is searched, the self-defined ethnic background of the person in charge of the vehicle must be recorded, unless the vehicle is unattended.

5.4.6. The record of the grounds for making a search must, briefly but informatively, explain the reason why a particular person or vehicle was searched under section 47A.

5.4.7. 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.

5.4.8. 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.

5.4.9. The vehicle must if practicable be left secure.

5.5. Monitoring and supervising the use of stop and search powers

5.5.1. Supervising officers must monitor the use of stop and search powers. They should consider in particular whether there is any evidence that they are being exercised on the basis of stereotyped images or inappropriate generalisations. Supervising officers should satisfy themselves that the practice of officers under their supervision in stopping, searching and recording is fully in accordance with this Code. Supervisors must also examine whether the records reveal any trends or patterns which give cause for concern, and if so take appropriate action to address this.

5.5.2. Supervision and monitoring must be supported by the compilation of comprehensive statistical records of stops and searches at force, area and local level. Any apparently disproportionate use of the powers by particular officers or groups of officers or in relation to specific sections of the community should be identified and investigated. Statistical data on the use of the powers should be provided quarterly (in arrears) to the Home Office.

5.5.3. In order to promote public confidence in the use of the powers, forces in consultation with police authorities must make arrangements for the records to be scrutinised by representatives of the community, and to explain the use of the powers at a local level. Arrangements for public scrutiny of records should take account of the right to confidentiality of those stopped and searched.

5.6. Use of Powers by PCSOs (England & Wales only)

5.6.1. Under the Police Reform Act 2002, PCSOs may (where an authorisation is in place) search vehicles and anything carried by individuals under section 47A, provided they have been designated under the 2002 Act by their chief constable, and that they are in the company of a constable who is supervising them. PCSOs may not, however, search people or people's clothing under the section 47A powers. PCSOs can stop:

- Any pedestrian;
- Any vehicle;

and search

- Anything carried by a pedestrian;
- Any vehicle;
- Anything carried by a driver or passenger;
- Anything on or in a vehicle.

5.6.2. Authorising officers may consider whether to include PCSOs within a stop and search operation authorised by section 47A. If PCSOs are to use the powers available, they should be properly briefed on the limitations set out in this section, as well as being briefed on the appropriate use of the powers (*see section 4.2*).

6. Community Engagement

6.1. Community Engagement

6.1.1. Stop and search is one of the ways in which the police can protect communities from terrorism. Ongoing community engagement is essential in improving relationships with the community and can help to:

- (a) Increase confidence in the Police Service through a greater understanding of why the powers of stop and search are needed and the reasons for their use;
- (b) Improve public reassurance;
- (c) Increase the flow of information and intelligence from the community to the Police Service, which can help to assist with investigations and, ultimately, the prevention of terrorist activity; and
- (d) Minimise any possible negative impact of police activities within communities.

6.1.2. Police forces may, for example, use existing community engagement arrangements. However, where stop and search powers affect sections of the community with whom channels of communication are difficult or non-existent, these should be identified and put in place. For example, if 47A authorisations have primarily been made around transport hubs, effort should be made to engage with people using those hubs.

6.1.3. When planning a counter-terrorism search operation, police authorities and the local CONTEST prevent strategic partnership should be involved at the earliest opportunity to provide advice and assistance in identifying mechanisms for engaging with communities. For further information on the government's counter-terrorism strategy, see <http://security.homeoffice.gov.uk/counter-terrorism-strategy>

6.1.4. If a force has a 'PREVENT' lead officer they should be engaged with the planning process. Police forces may also consider using the media to inform and reassure the community. **Note: Use of the media is not an alternative to community consultation.**

6.1.5. Other stakeholders that the Police Service should consider engagement with include:

- i. Community Safety Partnerships (CSPs) – Scotland & Wales;
- ii. Crime and Disorder Reduction Partnerships (CDRPs) – England;
- iii. Local Criminal Justice Boards (LCJBs);
- iv. Local Strategic Partnerships (LSPs);

v. Neighbourhood Panels.

6.2 Retrospective and Ongoing Engagement

6.2.1. The stop and search powers under section 47A of the Terrorism Act 2000 are only for use in circumstances where the authorising officer reasonably suspects an act of terrorism will take place and it will not always be possible to carry out community engagement prior to authorisation. In these circumstances, police forces should carry out a retrospective review of the use of the powers, including the stakeholders above.

6.2.2. Police forces should continue to monitor the use of section 47A powers for the duration of an authorisation, both in discussion with community representatives and by explaining how and why the powers are being used to individuals who are stopped and searched.

6.2.3. Officers should be ready to explain to individuals why the powers are in place, insofar as this can be communicated without disclosing sensitive intelligence or causing undue alarm. Stop and search operations should form part of wider counter-terrorism policing, and public awareness of the powers should be considered as part of any wider communications strategy associated with an operation.

6.3 The Role of Police Authorities

6.3.1. Police authorities have an essential role in working with their local force to build community confidence in the appropriate use of stop and search.

6.3.2. The Association of Police Authorities (APA) has developed guidance for police authorities which offers both practical advice and examples of good practice to help raise awareness of stop and search. The APA guidance should be referred to by officers who lead on stop and search on behalf of their chief constable or commissioner.

6.3.4. Where section 47A searches under the Terrorism Act 2000 have been carried out in a particular police force area, the police authority may review the use of these powers by that force. Such a review may focus on supervision, briefing and analysis of the statistics recorded. This review may also involve members of the community.

Annex A

Replacement powers to stop and search in specified locations

1.—(1) The Terrorism Act 2000 is to have effect as if before section 48 (and the italic cross-heading before it) there were inserted—

“47A Searches in specified areas or places

(1) A senior police officer may give an authorisation under subsection (2) or (3) in relation to a specified area or place if the officer—

- (a) reasonably suspects that an act of terrorism will take place; and
- (b) considers that—
 - (i) the authorisation is necessary to prevent such an act;
 - (ii) the specified area or place is no greater than is necessary to prevent such an act; and
 - (iii) the duration of the authorisation is no longer than is necessary to prevent such an act.

(2) An authorisation under this subsection authorises any constable in uniform to stop a vehicle in the specified area or place and to search—

- (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.

(3) An authorisation under this subsection authorises any constable in uniform to stop a pedestrian in the specified area or place and to search—

- (a) the pedestrian;
- (b) anything carried by the pedestrian.

(4) A constable in uniform may exercise the power conferred by an authorisation under subsection (2) or (3) 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 section 40(1)(b).

(5) But the power conferred by such an authorisation may be exercised whether or not the constable reasonably suspects that there is such evidence.

(6) A constable may seize and retain anything which the constable—

- (a) discovers in the course of a search under such an authorisation; and

- (b) 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 person falling within section 40(1)(b).

(7) Schedule 6B (which makes supplementary provision about authorisations under this section) has effect.

(8) In this section—

“driver”, in relation to an aircraft, hovercraft or vessel, means the captain, pilot or other person with control of the aircraft, hovercraft or vessel or any member of its crew and, in relation to a train, includes any member of its crew;

“senior police officer” has the same meaning as in Schedule 6B (see paragraph 14(1) and (2) of that Schedule);

“specified” means specified in an authorisation.”

Replacement powers to stop and search: supplementary provisions

The Terrorism Act 2000 is to have effect as if after Schedule 6A there were inserted—

SCHEDULE 6B

Searches in specified areas or places: supplementary

Extent of search powers: supplementary

1. A constable exercising the power conferred by an authorisation under section 47A may not require a person to remove any clothing in public except for headgear, footwear, an outer coat, a jacket or gloves.

2.—(1) Sub-paragraph (2) applies if a constable proposes to search a person or vehicle by virtue of section 47A(2) or (3).

(2) The constable 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.

Requirements as to writing

3. A senior police officer who gives an authorisation under section 47A orally must confirm it in writing as soon as reasonably practicable.

4.—(1) Where—

(a) a vehicle or pedestrian is stopped by virtue of section 47A(2) or (3), and

(b) the driver of the vehicle or the pedestrian applies for a written statement that the vehicle was stopped, or that the pedestrian was stopped, by virtue of section 47A(2) or (as the case may be) (3),

the written statement must be provided.

(2) An application under sub-paragraph (1) must be made within the period of 12 months beginning with the date on which the vehicle or pedestrian was stopped.

Duration of authorisations

5.—(1) An authorisation under section 47A has effect during the period—

- (a) beginning at the time when the authorisation is given, and
- (b) ending with the specified date or at the specified time.

(2) This paragraph is subject as follows.

6. The specified date or time must not occur after the end of the period of 14 days beginning with the day on which the authorisation is given.

7.—(1) The senior police officer who gives an authorisation must inform the Secretary of State of it as soon as reasonably practicable.

(2) An authorisation ceases to have effect at the end of the period of 48 hours beginning with the time when it is given unless it is confirmed by the Secretary of State before the end of that period.

(3) An authorisation ceasing to have effect by virtue of sub-paragraph (2) does not affect the lawfulness of anything done in reliance on it before the end of the period concerned.

(4) When confirming an authorisation, the Secretary of State may—

- (a) substitute an earlier date or time for the specified date or time;
- (b) substitute a more restricted area or place for the specified area or place.

8. The Secretary of State may cancel an authorisation with effect from a time identified by the Secretary of State.

9.—(1) A senior police officer may—

- (a) cancel an authorisation with effect from a time identified by the officer concerned;
- (b) substitute an earlier date or time for the specified date or time;
- (c) substitute a more restricted area or place for the specified area or place.

(2) Any such cancellation or substitution in relation to an authorisation confirmed by the Secretary of State under paragraph 7 does not require confirmation by the Secretary of State.

10. An authorisation given by a member of the Civil Nuclear Constabulary does not have effect except in relation to times when the specified area or place is a place where members of that Constabulary have the powers and privileges of a constable.

11. The existence, expiry or cancellation of an authorisation does not prevent the giving of a new authorisation.

Specified areas or places

12.—(1) An authorisation given by a senior police officer who is not a member of the British Transport Police Force, the Ministry of Defence Police or the Civil Nuclear Constabulary may specify an area or place together with—

- (a) the internal waters adjacent to that area or place; or
- (b) a specified area of those internal waters.

(2) In sub-paragraph (1) “internal waters” means waters in the United Kingdom that are not comprised in any police area.

13. Where an authorisation specifies more than one area or place—

- (a) the power of a senior police officer under paragraph 5(1)(b) to specify a date or time includes a power to specify different dates or times for different areas or places (and the other references in this Schedule to the specified date or time are to be read accordingly), and
- (b) the power of the Secretary of State under paragraph 7(4)(b), and of a senior police officer under paragraph 9(1)(c), includes a power to remove areas or places from the authorisation.

Interpretation

14.—(1) In this Schedule—

“driver” has the meaning given by section 47A(8);

“senior police officer” means—

- (a) in relation to an authorisation where the specified area or place is the whole or part of a police area outside Northern Ireland, other than of a police area mentioned in paragraph (b) or (c), a police officer for the area who is of at least the rank of assistant chief constable;
- (b) in relation to an authorisation where the specified area or place is the whole or part of the metropolitan police district, a police officer for the district who is of at least the rank of commander of the metropolitan police;
- (c) in relation to an authorisation where the specified area or place is the whole or part of the City of London, a police officer for the City who is of at least the rank of commander in the City of London police force;
- (d) in relation to an authorisation where the specified area or place is the whole or part of Northern Ireland, a member of the Police Service of Northern Ireland who is of at least the rank of assistant chief constable;

“specified” means specified in an authorisation.

(2) References in this Schedule to a senior police officer are to be read as including—

- (a) in relation to an authorisation where the specified area or place is the whole or part of a police area outside Northern Ireland and is in a place described in section 34(1A), a member of the British Transport Police Force who is of at least the rank of assistant chief constable;
- (b) in relation to an authorisation where the specified area or place is a place to which section 2(2) of the Ministry of Defence Police Act 1987⁽⁹⁾ applies, a member of the Ministry of Defence Police who is of at least the rank of assistant chief constable;

⁽⁹⁾ 1987 c.4. Section 2(2) was amended by section 98(1) and (2) and section 125 of and Part 6 of Schedule 8 to the Anti-terrorism, Crime and Security Act 2001 (c.24).

(c) in relation to an authorisation where the specified area or place is a place in which members of the Civil Nuclear Constabulary have the powers and privileges of a constable, a member of that Constabulary who is of at least the rank of assistant chief constable;

but such references are not to be read as including a member of the British Transport Police Force, the Ministry of Defence Police or the Civil Nuclear Constabulary in any other case.”

archived

Annex B

SELF-DEFINED ETHNIC CLASSIFICATION CATEGORIES

White	W
A. <i>White - British</i>	W1
B. <i>White - Irish</i>	W2
C. <i>Any other White background</i>	W9
Mixed	M
D. <i>White and Black Caribbean</i>	M1
E. <i>White and Black African</i>	M2
F. <i>White and Asian</i>	M3
G. <i>Any other Mixed Background</i>	M9
Asian / Asian - British	A
H. <i>Asian - Indian</i>	A1
I. <i>Asian - Pakistani</i>	A2
J. <i>Asian - Bangladeshi</i>	A3
K. <i>Any other Asian background</i>	A9
Black / Black - British	B
L. <i>Black - Caribbean</i>	B1
M. <i>Black African</i>	B2
N. <i>Any other Black background</i>	B9
Other	O
O. <i>Chinese</i>	01
P. <i>Any other</i>	09
Not Stated	NS

ANNEX C

Authorisation to Stop and Search – Section 47A of the Terrorism Act 2000

[To be confirmed by the Secretary of State within 48 hours of time of authorisation]

Forces should retain a completed copy of this form for their own records

Note 1: Where practicable, draft authorisations should be made available to the Office for Security and Counter-Terrorism (OSCT), Home Office before they are made by the authorising officer. Where it is not practicable to do so, authorisations should be forwarded immediately after they are made.

Note 2: When confirming an authorisation, the Secretary of State may:

- a) substitute earlier date(s) or time(s) for the specified date(s) or time(s);
- b) substitute a more restricted area or place for the specified area or place (including removing any specified area or place where more than one has been specified)¹⁰.

The Secretary of State may cancel an authorisation with effect from a time identified by the Secretary of State¹¹.

1) Name of Force and Authorising Officer:

Force:	
Authorising Officer:	
Name:	Rank:

2) Police Force Contact and Telephone Number:

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3) Authorisation given under:
(Please see Explanatory Notes for details).

Section 47A(2) (vehicles) <i>(please tick)</i> []	Section 47A(3) (pedestrians) <i>(please tick)</i> []
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4) Meeting the test:

An authorisation under section 47A may only be given where the authorising officer **reasonably suspects** that an act of terrorism will take place, and considers the authorisation is **necessary** to

¹⁰ Paragraphs 7(4) and 13 of Schedule 6B to the Terrorism Act 2000 (see Schedule 1 to the Terrorism Act (Remedial) Order 2011).

¹¹ Paragraph 8 of Schedule 6B to the Terrorism Act 2000 (see Schedule 1 to the Terrorism Act (Remedial) Order 2011).

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prevent such an act, and that the specified area(s) or place(s) are no greater and the duration of the authorisation is no longer than necessary to prevent such an act.

The authorising officer should also confirm that they are satisfied that the authorisation complies with the legislative test and the provisions of the Code of Practice and should provide a summary below to that effect (please see Explanatory Notes for more detail).



- 5) **Suspected act of terrorism:**
Provide a detailed account of the intelligence which has given rise to reasonable suspicion that an act of terrorism will take place (expanding on the summary in Section 4). This should include classified material where it exists, which should be provided to the Secretary of State, and which may be annexed to this form (please see Explanatory Notes for more details).



- 6) **Successive authorisations:**
If an authorisation is one that covers a similar geographical area or place to one immediately preceding it, this must be noted here. And information must be provided as to how the intelligence has changed, or if it has not changed, as to how it has been reassessed and remains pertinent (please see Explanatory Notes for more details).



7) Necessity for use of section 47A powers:

Explain how the use of section 47A powers is considered an appropriate and necessary response to the circumstances and why other measures, in particular stop and search powers under s.43 of the Terrorism Act 2000, are not considered sufficient (please see Explanatory Notes for more details).

8) Description of Area(s) or Place(s) where powers to be available:

The area(s) or place(s) specified in which the powers are authorised must be “**no greater than is necessary**”, and should be identified and described in comprehensive detail. A map **must** be provided with sufficient detail to allow identification of the area(s) or place(s) covered by the authorisation. An authorisation which covers an entire force area should **not** be made unless there are exceptional reasons for doing so and it can be shown to be necessary.¹²

Explain why the powers are considered necessary in that area(s) or place(s) (please see Explanatory Notes for more details).

Confirmation that map(s) of area(s) or place(s) within force area are attached (*please tick*) []

¹² Force wide authorisations may be justifiable in respect of City of London Police, purely because of the size of the force area. However, the geographical area should still be no greater than necessary.

Area / place (1)
Area / place (2)
Area / place (3)

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11) Practical Implementation of powers:

Set out information about how the powers will be used and why, including:

1. Whether and how officers will be briefed about the use of s.47A before its use. All officers involved in exercising s. 47A powers should receive appropriate briefing on the use of the powers (including the Code of Practice¹³) (please see Explanatory Notes for more details).
2. Whether stops and searches will be carried out on the basis of objective indicators supported by intelligence (e.g. behavioural indicators, appearance, items being carried etc) or whether they will be carried out on a random basis or whether a combination of these tactics will be used. If individuals

¹³ The Code of Practice issued under section 47B of the Terrorism Act 2000 (see article 4 of the Terrorism Act (Remedial) Order 2011).

and vehicles are to be selected at random, information must be given as to the parameters of such an operation.



12)

Community engagement:

Provide an account of the steps that have been, or will be, taken to engage those communities that have been or will be affected by the authorisation. Where it has not been possible or appropriate to carry out community engagement prior to authorisation, a retrospective review of the use of the powers should be carried out (please see Explanatory Notes for details).

13) Other Police forces (1):

On giving an authorisation, the authorising officer for any Home Office or Scottish police force should notify any non-Home Office force whose force area overlaps with the area(s) or place(s) specified by the authorisation (i.e. British Transport Police, Ministry of Defence Police, or Civil Nuclear Constabulary).

Force covered (including contact name):	Date of notification:

14) Other Police forces (2):

On giving an authorisation, the authorising officer for the British Transport Police, Ministry of Defence Police or Civil Nuclear Constabulary should notify the Home Office police force(s) which has responsibility for the police area in which the area(s) or place(s) specified in the authorisation are located.

Force covered (including contact name):	Date of notification:

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15) Police Authority notification:

On giving an authorisation, the authorising officer should notify the police authority for their force area (please see Explanatory Notes for details).

Date police authority notified:	PA contact:
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16) Authorising Officer:

An authorising officer must hold **substantive or temporary ACPO rank**. Officers **acting** in ACPO ranks may **not** authorise the use of section 47A powers (please see Explanatory Notes).

Authorisation given under section 47A(2) (please tick) <input type="checkbox"/>	
Authorisation given under section 47A(3) (please tick) <input type="checkbox"/>	
Signature.....	Time Signed.....
Print Name and Rank.....	Date Signed.....

17) Oral authorisation:

If the authorisation was given orally first, please indicate below at what time it was given (and see section 16 above which provides the time and date of subsequent written confirmation) (please see Explanatory Notes).

Date of oral confirmation:	Time of oral confirmation:
Authorising Officer (Name and Rank):	

18) (If applicable) Senior Officer Cancellation / Amendment:

If at any stage during an authorisation the authorising officer ceases to be satisfied that the test for making the authorisation is met, they must cancel the authorisation immediately and inform the Secretary of State.

A senior officer may also amend an authorisation by reducing the geographical extent of the authorisation or the duration¹⁴ or by changing the practical implementation of the powers. Where an authorisation is so amended, the Secretary of State must be informed (via the ACTCC).

Cancellation / Amendment	
Signature.....	Time Signed.....
Print Name/Rank.....	Date Signed.....

¹⁴ See paragraph 9 of Schedule 6B to the Terrorism Act 2000 which allows a senior officer to cancel an authorisation or substitute an early end date or time or a more restricted area or place. Such amendment does not require confirmation by the Secretary of State.

Details of cancellation / amendment:
Notification to ACTCC Date..... Time..... Police force contact..... ACTCC contact.....

19) Ministerial Confirmation / Amendment / Cancellation:

An authorising officer must **not** assume Ministerial confirmation of an authorisation specified to last longer than 48 hours has been obtained until formally notified by the ACPO Counter Terrorism Coordination Centre (ACTCC). **Details of Ministerial confirmation / cancellation / amendment should be recorded by OSCT below**, and passed to the ACTCC.

The Secretary of State may cancel an authorisation from a time identified. The Secretary of State may also, when confirming an authorisation, substitute an earlier end date or time or a more restricted area for the authorisation (including the removal of any specified area(s) or place(s)).¹⁵

Date of confirmation:	Time of confirmation:
Written (Confirmation) <i>(please tick)</i> []	Oral (Confirmation) <i>(please tick)</i> []
Date of cancellation:	Time of cancellation:
Written (Cancellation) <i>(please tick)</i> []	Oral (Cancellation) <i>(please tick)</i> []
Substituted end date:	Substituted end time:
Substituted area / place (see below):	

¹⁵ See paragraphs 7(4), 8 and 13 of Schedule 6B to the Terrorism Act 2000.

Details of amendment on confirmation/cancellation:	
Name of Minister:	
Date & Time ACTCC notified by the Home Office:	
Date:	Time:
Date & Time force notified by ACTCC:	
Date:	Time:

Forces should retain a completed copy of this form for their own records

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Summary of use of S.47A Powers during any previous authorisation – [FORCE AREA]

(please see Explanatory Notes for details).

Dates (from – to):

Action	Pedestrians	Vehicles			Ethnicity ¹⁶			
		Vehicles (unattended)	Vehicles & Drivers	Passengers	White	Black	Asian	Chinese/other
Stops / searches								
Terrorism Act Arrests ¹⁷								
Other Arrests								
Charges								
Property Recovered								

Comments: where possible to include analysis of the extent of use of the powers during any previous authorisation.

¹⁶ Ethnicity should be recorded in all cases for pedestrians, drivers and passengers.

¹⁷ All Terrorism Act arrests should be reported at the earliest opportunity to the ACPO Counter Terrorism Coordination Centre (ACTCC).

Explanatory Notes to Authorisation of Stop and Search under S.47A of the Terrorism Act 2000

<p><u>Point 3</u></p>	<p><u>Authorisation given under</u></p> <p>An authorisation may be given under Section 47A(2) and/or 47A(3), i.e. in respect of vehicles and/or pedestrians. An authorisation under subsection (2) authorises any constable in uniform to stop a vehicle in the specified area or place and to search:—</p> <ul style="list-style-type: none"> (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. <p>An authorisation under subsection (3) authorises any constable in uniform to stop a pedestrian in the specified area or place and to search:—</p> <ul style="list-style-type: none"> (a) the pedestrian; (b) anything carried by the pedestrian.
<p><u>Point 4</u></p>	<p><u>Meeting the test</u></p> <p>The test for giving an authorisation under section 47A is that the person giving it: must reasonably suspect that an act of terrorism will take place and consider that the powers are necessary to prevent such an act and that the area(s) or place(s) specified in the authorisation are no greater than is necessary and the duration of the authorisation is no longer than is necessary to prevent such an act. Authorising Officers need to satisfy themselves that this test has been fully met and that the authorisation is in accordance with the provisions of the Code of Practice. This section of the form should record the fact that the Authorising Officer is satisfied of this. Supporting information in relation to meeting the test should be provided in subsequent sections of the form.</p>
<p><u>Point 5</u></p>	<p><u>Suspected act of terrorism</u></p> <p>Any classified material must be sent to the Secretary of State, with the authorisation, by a secure means of communication. References to classified reporting may be used instead of verbatim reports or quotes, but the reporting referenced must have been considered by the Authorising Officer in making the authorisation, and must be available to the Secretary of State when considering whether to confirm an authorisation</p> <p>Threat Assessments from International Terrorism and Dissident Irish Republican Terrorism are provided by JTAC and Security Service. Assessments of the threat to various aspects of the UK infrastructure, such as aviation, transport, military establishments are also available from JTAC, and forces can request JTAC produce an assessment for specific areas or events. Such assessments should be included in this section (or annexed to this form) where appropriate.</p> <p>However, threat assessments alone are not sufficient – information must be provided as to why the Authorising Officer reasonably suspects an act of terrorism will take place.</p> <p>Authorising Officers should not assume that the Secretary of State has already had sight of the</p>

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	<p>intelligence that they refer to in their assessments and must ensure that the assessments are up to date.</p>
<p>Point 6</p>	<p><u>Successive authorisations</u></p> <p>Once an authorisation has expired, a new authorisation may be given. However, previous powers under sections 44 to 46 of the Terrorism Act 2000, under which authorisations were made by some forces on a virtually indefinite basis, have been repealed. ‘Rolling’ authorisations are not permitted under the powers in section 47A of and Schedule 6B to the Terrorism Act 2000.</p> <p>A new authorisation covering the same or substantially the same areas or places as a previous authorisation may be given if the intelligence which informed the initial authorisation has been subject to fresh assessment and the officer giving the authorisation is satisfied that the test for authorisation is still met on the basis of that assessment. Where a successive authorisation is given, it may be given before the expiry of the existing authorisation, but that existing authorisation should be cancelled.</p> <p>In the exceptional circumstances where a new authorisation is given in respect of a different threat and covering different areas of the force area, any existing authorisation need not be cancelled if it continues to be necessary.</p>
<p>Point 7</p>	<p><u>Necessity for use of section 47A powers</u></p> <p>The authorisation should include details of how the exercise of the powers is necessary to prevent the act of terrorism. This means an explanation of how the authorisation will counter the threat i.e. why the stopping and searching of individuals and/or vehicles without suspicion is necessary to prevent the suspected act of terrorism.</p> <p>Given that the section 47A powers are exceptional, Authorising Officers should be satisfied that other measures and powers are insufficient to deal with the situation. In particular, they should consider whether the powers under section 43 of the Terrorism Act 2000 are sufficient for the purposes of stopping and searching individuals for the purposes of preventing terrorism.</p>
<p>Point 8</p>	<p><u>Description of Area(s) or Place(s) where powers to be available</u></p> <p>One authorisation may be given which covers a number of different places or areas within a police force area (whether those are included in response to the same or different threats). The authorisation must set out the necessity for including each of these areas and the necessity for the length of time for which the authorisation lasts in respect of each area or place</p> <p>Although the Code of Practice indicates only that a map <u>should</u> be provided, the Secretary of State will <u>insist</u> that one is, and with sufficient supporting description (and justification).</p> <p>Authorisations which cover entire force areas are not justifiable under section 47A and Schedule 6B, unless there are exceptional circumstances which support such an authorisation.</p> <p>An authorisation should not provide for the powers to be used other than where they are considered necessary. This means authorisations must be as limited as possible and linked to addressing the suspected act of terrorism. In determining the area(s) or place(s) it is necessary to include in the authorisation it may be necessary to include consideration of the possibility that terrorists may change their method or target of attack, and it will be necessary to consider what the appropriate operational response to the intelligence is (e.g. which areas would be necessary to authorise in order to intercept a terrorist or vehicle). However, any authorisations must be as limited as possible and based on an assessment of the existing intelligence.</p>

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<p><u>Points 9 & 10</u></p>	<p><u>Duration of authorisation</u></p> <p>The maximum period for an authorisation is 14 days, and authorisations should not be made for the maximum period unless it is necessary to do so based on the intelligence about the particular threat. Authorisations should be for no longer than necessary. Justification should be provided for the length of an authorisation, setting out why the intelligence supports amount of time authorised. If an authorisation is one which is similar to another immediately preceding it, information should be provided as to why a new authorisation is justified and why the period of the initial authorisation was not sufficient. Where different areas or places are specified within one authorisation, different time periods may be specified in relation to each of these areas or places – indeed the time period necessary for each will need to be considered and justified.</p> <p>For the purposes of calculating a 14 day period, the day on which an authorisation is given is deemed to constitute a full day, regardless of the time at which the authorisation is given. For example, an authorisation given at 08.00hrs on 1 November must end no later than 23.59hrs on 14 November. It cannot run until 07.59hrs on 15 November. Authorising officers must assure themselves that the authorisation does not run for more than the statutory 14 day limit. In the case of a new authorisation, an authorisation can be given before the expiry of the previous one if necessary (in which case the preceding authorisation should also be cancelled).</p> <p>In the event an authorisation for the use of section 47A powers is given for a period of less than forty-eight hours the Authorising Officer must inform the Secretary of State of the authorisation. However, there is no requirement for Secretary of State to confirm the authorisation. She does however have the power to cancel such an authorisation. Where practicable, the authorising officer should inform the Secretary of State that he intends to make a short term authorisation in advance of doing so.</p> <p>The test for a short term authorisation is the same as an authorisation of longer duration. ‘Rolling’ short term authorisations are not permitted.</p>
<p><u>Point 11</u></p>	<p><u>Practical Implementation of Powers</u></p> <p>The Authorising Officer should provide information about how the powers will be used and why. This may include the use of vehicle checkpoints, stops and searches of individuals entering or leaving particular sites such as rail stations, sports stadiums etc (depending on the nature of the threat and the area(s) or place(s) specified). The Authorising Officer should indicate whether officers will be instructed to conduct stops and searches on the basis of particular indicators (e.g. behavioural indicators, types of items carried or clothes worn, types of vehicles etc), or whether the powers will be exercised on a random basis. If the powers are to be exercised on a random basis, the Authorising Officer should indicate why this is necessary and why searches based on particular indicators are not appropriate. They must also provide details of the parameters of any stop and search operation based on random selection of individuals or vehicles.</p> <p>If there are subsequently <u>significant</u> changes to how the power is to be used, then this should be notified to the Secretary of State (using section 18 of this form).</p>
<p><u>Point 12</u></p>	<p><u>Community engagement</u></p> <p>Authorising Officers should demonstrate that communities have been or will be engaged as fully as possible for the duration of an authorisation. When using the power, police forces may use existing community engagement arrangements. However, where stop and search powers affect sections of the community with whom channels of communication are difficult or non existent, these should be identified and put in place.</p>

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	<p>When planning a counter-terrorism stop and search operation, police authorities and the local CONTEST prevent strategic partnership should be involved at the earliest opportunity to provide advice and assistance in identifying mechanisms for engaging with communities. If a force has a 'PREVENT' lead officer they should be engaged with the planning process. Police forces should continue to monitor the use of section 47A powers for the duration of an authorisation, both in discussion with community representatives and by explaining how and why the powers are being used to individuals who are stopped and searched.</p> <p>The stop and search powers under section 47A of the Terrorism Act 2000 are only for use in circumstances where the authorising officer reasonably suspects an act of terrorism will take place and it will not always be possible to carry out community engagement prior to giving an authorisation. In these circumstances, police forces should carry out a retrospective review of the use of the powers including the stakeholders set out in the Code of Practice, in that review.</p>
<p><u>Point 15</u></p>	<p><u>Police Authority engagement</u></p> <p>Authorising Officers should notify and engage their police authority as soon as possible after an authorisation has been given. Police authorities have an essential role in working with their local force to build community confidence in the appropriate use of stop and search, and can provide practical advice and guidance to help raise awareness of stop and search.</p>
<p><u>Points 16 & 17</u></p>	<p><u>Authorising Officer & Oral authorisation</u></p> <p>An authorisation under section 47A may only be made by an officer of ACPO or ACPOS rank (i.e. at least the rank of assistant chief constable or, in the case of the Metropolitan and City of London Police, a commander). Authorising Officers must be either substantive or on temporary promotion to the qualifying rank. Officers who are acting in the rank may not give authorisations.</p> <p>The authorisation runs from the time it is given in writing. If an authorisation is given in writing – it is given in this form. If it is given orally, it is to be confirmed by completion of this form.</p> <p>If the authorisation is given orally, it will run from the time of the oral confirmation – but the authorisation must be confirmed in writing as soon as reasonably practicable, i.e. by signature in Section 16, timed and dated.</p>
<p><u>Point 19</u></p>	<p><u>Ministerial Confirmation / Cancellation / Amendment</u></p> <p>Authorising Officers need to be aware that the Secretary of State may decide to cancel or amend the authorisation, which will be recorded in this section. Authorising officers should receive a telephone call from the ACPO Counter Terrorist Coordination Centre (ACTCC) followed by fax confirmation of Ministerial confirmation / cancellation / amendment of the Authority. Until written confirmation or otherwise is received, authorising officers must not assume that Ministerial confirmation has been given. Forces should consider confirming with the ACTCC after a period of time (e.g. 36 hours) if confirmation has not been received.</p>
<p><u>Summary of use of S.47A powers</u></p>	<p><u>Summary of use of section 47A powers during any previous authorisation.</u></p> <p>In order to aid the monitoring and supervision of the use of s.47A powers, comprehensive statistical records of stops and searches should be compiled. The details required in this section should be provided when a force gives an authorisation – in respect of the period (or most recent period) for which any previous authorisation given by that force. Forces are also required to provide quarterly data on their use of stop and search powers, which are subsequently published by the Home Office and the Ministry of Justice.</p>

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