



THE SOVEREIGN
BASE AREAS OF AKROTIRI AND DHEKELIA
GAZETTE

Published by Authority

| SERIAL No. 1810 | Tuesday, 14 June 2016 | 27 |
|--|---|----|
| <p style="text-align: center;">CONTENTS: ADMINISTRATION NOTICES:</p> <p>24. Counter-Terrorism Ordinance 2016 – Code of Practice</p> <hr/> <p style="text-align: center;">SUPPLEMENT No. 2 ORDINANCES: Counter-Terrorism Ordinance 2016 (Ord. 12/2016)</p> <hr/> <p style="text-align: center;">SUPPLEMENT No. 3 PUBLIC INSTRUMENTS:</p> <p>Counter-Terrorism (Code of Practice) Order 2016 (PI No. 7/2016)</p> <hr/> | <p style="text-align: center;">(24) Counter-Terrorism Ordinance 2016 – Code of Practice</p> <p>This Code is prepared by the Administrator under section 27 of the Counter-Terrorism Ordinance 2016.</p> <p style="text-align: right;"><i>(see (24) overleaf)</i></p> <hr/> <p style="text-align: center;">By the Administrator's Command, P.E. Rushbrook, Chief Officer, Sovereign Base Areas.</p> | |

CODE OF PRACTICE FOR AUTHORISATION AND
EXERCISE OF STOP AND SEARCH POWERS IN
SECTIONS 24 TO 26 OF, AND THE SCHEDULE TO,
THE COUNTER-TERRORISM ORDINANCE 2016

CONTENTS

PART 1

Introduction

1. Purpose of Code
2. Scope of Code
3. Definition of terrorism

PART 2

Powers of stop and search

4. Searching persons and vehicles
5. Stopping and searching persons and vehicles under section 24(1)
6. Stopping and searching vehicles under section 25
7. Reasonable grounds for suspicion

PART 3

Authorisations and use of powers under section 26

8. Authorisation under section 26
9. Information in support of an authorisation
10. Successive or replacement authorisations
11. Guidance for authorising officer
12. Confirmation by the Administrator
13. Notification to other authorities
14. Short-term authorisation – under 48 hours
15. Internal and territorial waters
16. Exercising stop and search powers under section 26
17. Briefing and tasking
18. Avoiding discrimination
19. Health and safety
20. Photography and film
21. Seizure of items
22. Conduct of stops and searches
23. Steps to be taken prior to search
24. Recording requirements
25. Record of search

26. Monitoring and supervising the use of stop and search powers
27. Community engagement
28. Retrospective and on-going engagement

-
- ANNEX A — Stop and search powers in Counter-Terrorism Ordinance 2016
 - ANNEX B — Self-defined ethnic classification categories
 - ANNEX C — Authorisation to stop and search – section 26 of Counter-Terrorism Ordinance 2016
 - ANNEX D — Guidance Note to authorisation of stop and search under section 26 of Counter-Terrorism Ordinance 2016

PART 1

Introduction

Purpose of Code

1.—(1) This Code is prepared by the Administrator under section 27 of the Counter-Terrorism Ordinance 2016 and issued under section 28. It comes into force on 1 July 2016 in accordance with the Counter-Terrorism (Code of Practice) Order 2016.

(2) The purpose of this Code is as follows.

(3) It sets out the basic principles for the use of the power of authorisation and the powers of police officers under sections 24, 25 and 26 of, and the Schedule to, the Counter-Terrorism Ordinance 2016.

(4) It promotes the fundamental principles to be observed by the police 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.

(5) It ensures that the intrusion on the liberty of the person stopped and searched is as limited as possible, and clarifies 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.

(6) It sets 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. It also sets out that any misuse of the powers is likely to be harmful to counter-terrorism policing and lead to mistrust of the police. The misuse of these powers can lead to disciplinary action. Officers must also be able to explain their actions to the member of the public searched. Proportionate use of the powers can contribute towards the primary purpose of counter-terrorism work: ensuring the safety of the public.

(7) It specifies that section 26 powers should be authorised only where other powers or measures are insufficient to deal with the threat and, even where authorised, officers should still consider whether section 26 powers are the most appropriate to use.

(8) It specifies also that officers must not search a person, even with his or her consent, where no power to search is applicable. Even where a person is prepared to submit to a search voluntarily, the person must not be searched unless the necessary legal power exists, and the search must be in accordance with the relevant power and the provisions of this Code.

Scope of Code

2.—(1) This Code concerns the—

- (a) exercise of stop and search powers conferred by sections 24 and 25 of the Counter-Terrorism Ordinance 2016;
- (b) authorisation and exercise of powers to stop and search in specified areas or places at specified times contained in section 26 of, and the Schedule to, the Counter-Terrorism Ordinance 2016.

(2) This Code is issued under section 28 of the Counter-Terrorism Ordinance 2016.

(3) The effect of this Code is set out in section 30 of the Counter-Terrorism Ordinance 2016: police officers 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).

(4) The Chief Constable has a duty to have regard to this Code 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.

(5) This Code must be readily available at all police stations for consultation by police officers, police staff, detained persons and members of the public.

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

Definition of terrorism

3.—(1) Terrorism is defined by section 3 of the Counter-Terrorism Ordinance 2016.

(2) In summary, the term “terrorism” in the Ordinance means the use or threat of action where the action used or threatened—

- (a) involves serious violence against a person or serious damage to property;
- (b) endangers a person’s life, other than that of the person committing the action;
- (c) creates a serious risk to the health or safety of the public or a section of the public; or
- (d) is designed seriously to interfere with or seriously to disrupt an electronic system.

(3) And the use or threat is designed to—

- (a) influence the government or an international governmental organisation, or intimidate the public or a section of the public; and
- (b) is made for the purpose of advancing a political, religious, racial or ideological cause.

PART 2

Powers of stop and search

Searching persons and vehicles

4.—(1) Section 24(1) of the Counter-Terrorism Ordinance 2016 provides a power for a police officer to stop and search a person whom he or she reasonably suspects is a terrorist, to discover whether that person has anything in their possession which may constitute evidence they are a terrorist.

(2) Section 24(2) of the Counter-Terrorism Ordinance 2016 provides a power for a police officer to search a person arrested under section 22 of that Ordinance to discover whether that person has anything in their possession which may constitute evidence they are a terrorist. It does not require prior reasonable suspicion that such evidence may be found.

(3) There are two powers to stop and search a vehicle with reasonable suspicion. The first is under section 24, where the officer reasonably suspects a person in a vehicle to be a terrorist and stops the vehicle in order to carry out a search. Under section 24(5), the officer may also search the vehicle and anything in it or on it during the course of a search. The second is under section 25, which provides a power for a police officer to stop and search a vehicle which he or she reasonably suspects is being used for the purposes of terrorism, to search the vehicle and its occupants for evidence that it is being used for those purposes.

(4) Given they require reasonable suspicion in order to be exercised, the use of powers under sections 24 and 25 should be prioritised for the purposes of stopping and searching individuals for the purposes of preventing or detecting terrorism. The authorisation of the no suspicion powers under section 26 should only be considered as a last resort, where reasonable suspicion powers are considered inadequate to respond to the threat. Use of the search powers under section 26 should only be made (in an authorised area) when the powers in sections 24 and 25 are not appropriate.

Stopping and searching persons and vehicles under section 24(1)

5.—(1) A police officer may stop and search a person under section 24(1) of the Counter-Terrorism Ordinance 2016 if he or she reasonably suspects that the person is a terrorist, to discover whether or not they have in their possession anything which may constitute evidence that they are a terrorist. This power may be used at any time or in any place when the threshold of reasonable suspicion is met. No authorisation is required.

(2) If, when exercising the power to stop a person under section 24(1), a police officer stops a vehicle, he or she may search the vehicle, and anything in or on it, under section 24(5).

(3) A person who is in the same vehicle as someone an officer reasonably suspects to be a terrorist may not be searched by virtue of this power, solely on the basis that they are with a person whom an officer reasonably suspects is a terrorist. However, anything otherwise in or on the vehicle may be searched to discover whether there is anything that may constitute evidence that the person the officer suspects to be a terrorist is a terrorist. The person may only be searched (under section 24(1)) if the officer reasonably suspects that he or she is a terrorist.

(4) The powers under section 24 to search a person include the power to search anything that person is carrying with them, such as a bag, container or other object.

(5) Section 31 imports the statutory requirement in section 33 of the Criminal Procedure Ordinance 2016 that a search must be carried out by an officer of the same sex as the person to be searched, unless a police officer thinks that an immediate search is necessary to prevent harm to any person and an officer of the same sex is not immediately available to carry out the search. There is no power to carry out an intimate search.

(6) Persons may be detained only for as long as it is necessary to carry out the search.

Stopping and searching vehicles under section 25

6.—(1) Section 25 of the Counter-Terrorism Ordinance 2016 allows a police officer to stop and search a vehicle which he or she reasonably suspects is being used for the purposes of terrorism, for evidence that the vehicle is being used for such purposes. The officer may search anything in or on the vehicle or any person (including the drivers, crew and passengers) in the vehicle to discover whether there is anything which may constitute evidence that the vehicle is being used for the purposes of terrorism. Section 25 may be used to search unattended vehicles where an officer suspects the vehicle is being used for the purposes of terrorism.

(2) If the officer suspects a person of being a terrorist, but does not suspect the vehicle is being used at the time for the purposes of terrorism, the power under section 24(1) should be used.

(3) The power in section 25 may be used on the basis of information or intelligence about (for example) ownership or user(s) of the vehicle, previous involvement of the vehicle in terrorist or suspected terrorist activity or observation of how the vehicle is being used (for instance, if a vehicle is parked outside a potential target for long periods, or if a vehicle appears to be following a suspicious or repetitive route) or the nature of the vehicle or its contents (for example, if a non-commercial vehicle appears to be carrying gas canisters).

(4) Searches may be undertaken of anything in or on the vehicle, but care should be taken not to damage a vehicle as part of a search, or, in the case of an unattended vehicle, in order to gain entry into it.

(5) Vehicles stopped under section 25 and persons in those vehicles may be detained only for as long as is necessary to carry out the searches — at or near the place the vehicle was stopped.

Reasonable grounds for suspicion

7.—(1) Reasonable grounds for suspicion depend on the circumstances in each case. There must be an objective basis for the suspicion (that the person is a terrorist or that the vehicle is being used for the purposes of terrorism) based on the relevant facts, information and/or intelligence. Reasonable suspicion must rely on intelligence or information about, or behaviour by, the person or vehicle concerned. Unless the police have a description of a suspect, a person's physical appearance or ethnicity cannot be the sole reason for searching that person. Reasonable

suspicion cannot be based on generalisations or stereotypical images of certain groups or categories of people as more likely to be involved in terrorist activity.

(2) Reasonable suspicion may exist without specific information or intelligence but on the basis of the behaviour of a person. For example, reasonable suspicion that a person is a terrorist may arise from the person's behaviour at or near a location which has been identified as a potential target for terrorists.

(3) However, reasonable suspicion should normally be linked to credible and current intelligence or information, such as information describing an article being carried, a suspected terrorist, or intelligence about a particular or general threat insofar as it relates to a specific target or type of potential target. Searches based on credible and current intelligence or information are more likely to be effective.

(4) Searches are more likely to be effective, legitimate, and secure public confidence when reasonable suspicion is based on a range of factors. The overall use of these powers is more likely to be effective when up to date and accurate intelligence or information is communicated to officers and they are well-informed about the nature of the terrorist threat, potential targets and ways in which terrorists are known to operate.

(5) An officer who has reasonable grounds for suspicion may detain the person concerned in order to carry out a search. Before carrying out a search the officer may ask questions: for example, about the person's behaviour or presence in circumstances which gave rise to the suspicion. As a result of this conversation with the person, the reasonable grounds for suspicion necessary to search may remain or, because of a satisfactory explanation, may be eliminated — in which case no search should be conducted. The conversation may also reveal reasonable grounds to suspect the possession of unlawful articles such as drugs or non-terrorist related articles, in which case a search may be continued using a different, appropriate search power. Reasonable grounds for suspicion however cannot be provided retrospectively by a conversation with the individual or by their refusal to answer any questions asked (*see paragraph 7(9)*).

(6) In some circumstances preparatory questioning may be unnecessary, but in general a brief conversation or exchange will be desirable not only as a means of avoiding unsuccessful searches, but by providing an opportunity to explain the grounds for the stop/search (*see paragraph 23(1)*), to gain co-operation and reduce any tension there might be surrounding the stop/search.

(7) Where a person is lawfully detained for the purpose of a search, but no search in the event takes place, the detention will not thereby have been rendered unlawful.

(8) If, as a result of questioning before a search, or because of other circumstances which come to the attention of the officer, there cease to be reasonable grounds for suspecting that the person is a terrorist or the vehicle is being used for the purposes of terrorism, the officer may not conduct a search under section 24 or 25. In the absence of any other lawful power to search or detain, the person is free to leave at will at that stage and must be so informed.

(9) There is no power to stop or detain a person in order to find grounds for a search. Police officers have many encounters with members of the public which do not involve detaining people. If reasonable grounds for suspicion emerge during such an encounter, the officer may search the person, even though no grounds existed when the encounter began. If an officer is detaining someone for the purpose of a search, he or she should inform the person as soon as detention begins.

(10) The grounds for stopping and searching a person under section 24 are the same as the grounds for arrest under section 22: reasonable suspicion that the person is a terrorist. Stop and search is a less intrusive power than arrest and will be more appropriate in many situations, for example, in encounters with individuals where a stop and search may help to allay suspicions. Stop and search should not be used in any situation where it is more appropriate to arrest or where an officer believes it may put him, her, or members of the public, in danger.

PART 3

Authorisations and use of powers under section 26

Authorisation under section 26

8.—(1) An authorisation under section 26 may only be made by the Chief Constable or in his or her absence from the island of Cyprus, the Deputy Chief Constable. The person giving the authorisation is referred to in this Code as the authorising officer.

(2) The powers to stop and search under section 26 represent a significant divergence from the usual requirement for reasonable suspicion when exercising search powers. The powers are therefore only exercisable by a police officer in uniform in an area where and during a period when an authorisation is in place.

(3) The test for authorising section 26 powers is that the authorising officer—

- (a) reasonably suspects that an act of terrorism will take place; and
- (b) reasonably 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.

(4) The Administrator must be notified of any authorisation and must confirm any authorisation, if it is to remain in force beyond 48 hours.

(5) 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. The authorising officer should always consider whether it is appropriate to authorise the powers in the particular circumstances, with regard to—

- (a) the safety of the public;
- (b) the safety of officers; and
- (c) the necessity of the powers in relation to the threat.

(6) 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) whether there is a general high threat from terrorism;
- (b) whether a particular site or event is deemed to be “high risk” or vulnerable.

(7) An authorisation may not be given on the basis that—

- (a) the use of the powers provide public reassurance;
- (b) the powers are a useful deterrent or intelligence-gathering tool.

(8) An authorisation should not provide for the powers to be used other than where they are considered necessary to prevent the suspected act of terrorism. 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, the 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 (for example, whether to conduct stop and search around suspected target sites, 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.

(9) One authorisation may be given which encompasses a number of different places or areas within the Sovereign Base Areas. 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.

(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. The consideration of necessity will also involve an assessment of why other measures including, in particular, the powers in sections 24 and 25 are not sufficient to address the threat.

(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 Administrator.

(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 or she must substitute a shorter period, or more restricted geographical area. In that instance, the officer must inform the Administrator but the Administrator need not confirm such changes.

Information in support of an authorisation

9.—(1) Authorisations should, where practicable, be given in writing. Where an authorisation is given orally, it must 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 Part and be provided on the form in Annex C.

(2) 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 Administrator, 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 Administrator when considering whether to confirm an authorisation.

(3) Detailed information should be provided to identify the geographical area or place covered by the authorisation. Where possible, maps of the authorised area should be included. The authorised area should be no wider than necessary. Authorisations which cover the entire Western or Eastern Sovereign Base Area would be justified only in exceptional circumstances.

(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.

(5) The maximum period for an authorisation is 14 days. An authorisation should be given for no longer than necessary and should not automatically 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. 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.

(6) Information should be provided which demonstrates that all officers involved in exercising section 26 powers receive appropriate briefing in the use of the powers, including the provisions of this Code.

(7) The authorising officer should provide information about how the powers will be used and why. The extent to which there are objective factors (see *paragraph 16 for examples*) that can be used as a basis for the powers, tactical deployment will depend on the intelligence available and

will, therefore, vary. Where the intelligence is very limited, officers may not be able to use behavioural indicators or information contained in the intelligence and may have to conduct stop and searches in a less targeted way. Police officers must not, however, stop and search an individual or vehicle where they consider that there is no possibility of the individual being a terrorist or the vehicle being used for terrorism.

(8) Given the powers will generally be used on the basis of objective factors, police officers should consider whether powers requiring reasonable suspicion are more appropriate and officers should only use the powers conferred by a section 26 authorisation if they are satisfied that they cannot meet a threshold of reasonable suspicion sufficient to use other police powers.

Successive or replacement authorisations

10.—(1) When an authorisation is coming to an end, a new authorisation may be given.

(2) A new authorisation covering the same or substantially the same area or place as a previous authorisation may be given if the intelligence which informed the initial authorisation has been subject to fresh assessment and the authorising officer 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.

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

Guidance for authorising officer

11.—(1) The authorising officer should always consider whether giving an authorisation under section 26 is the most appropriate power to use in the circumstances. 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. The maximum 14 days may only be authorised where necessary to address the particular threat. 14 days 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 beginning with the day it was given (or if only the date is given, that date must be no later than the 14th day – and the time will be taken as 23:59hrs on that date).

(2) 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, rather than 07.59 on 15th November.

(3) Authorisations begin at the point at which they are signed, or when they are given orally by the authorising officer before being confirmed in writing. 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.

(4) When a section 26 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 in section 26 of, and the Schedule to, the Counter-Terrorism Ordinance 2016 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.

Confirmation by the Administrator

12.—(1) Where practicable, an authorising officer should inform the Administrator that he or she intends to give an authorisation and provide a draft of that authorisation before it is given.

(2) The authorising officer must inform the Administrator as soon as reasonably practicable once an authorisation under section 26 of the Counter-Terrorism Ordinance 2016 has been given. In practice, the authorising officer should aim to have provided the written authorisation to the Administrator within 2 hours of an authorisation being given.

(3) Authorisations remain lawful for up to 48 hours without the Administrator's approval. If the authorisation is not confirmed within a 48-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 Administrator or the authorising officer) or until it is cancelled by the authorising officer or by the Administrator.

Notification to other authorities

13. The authorising officer should notify the British High Commission, the Republic of Cyprus Police and the Cyprus Joint Police Unit that an authorisation is in place, and other authorities on the island of Cyprus as is necessary in relation to the areas and places specified in the authorisation. However, only the SBA Police may exercise powers under an authorisation.

Short-term authorisation – under 48 hours

14.—(1) In the event an authorisation for the use of section 26 powers is given for a period of less than 48 hours, the authorising officer must inform the Administrator of the authorisation as soon as reasonably practicable. Where it is reasonably practicable to do so, the Administrator may confirm or cancel the authorisation prior to its expiry.

(2) Where practicable, the authorising officer should inform the Administrator that he or she intends to make a short term authorisation in advance of doing so.

(3) The test for a short term authorisation is the same as an authorisation of longer duration. "Rolling" short term authorisations are not permitted.

Internal and territorial waters

15.—(1) For the purposes of the Counter-Terrorism Ordinance 2016, the term "vehicle" includes any vessel or hovercraft. The term "driver" includes the captain or any person in control of the vehicle, or any member of its crew.

(2) Section 26 authorisations can specify any area or place within the Sovereign Base Areas including its internal and territorial waters. Where practicable, legal advice should be sought before making an authorisation which extends to the territorial waters of the Sovereign Base Areas and the exercise of stop and search powers in the territorial waters to ensure compliance with the international law of the sea.

Exercising stop and search powers under section 26

16.—(1) When exercising section 26 powers, officers should have a basis for selecting individuals or vehicles to be stopped and searched. This basis will be set by the tactical briefing on the use of powers, described in *paragraph 9(7)*. Officers should still consider whether powers requiring reasonable suspicion in sections 24 and 25 of the Counter-Terrorism Ordinance 2016 or sections 33 to 35 (search of persons, places and vehicles without warrant) of the Criminal Procedure Ordinance 2016 are more appropriate, and should only use the powers conferred by a section 26 authorisation if they are satisfied that they cannot meet a threshold of reasonable suspicion.

(2) Searches conducted under section 26 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 terrorist. The search can therefore only be carried out to look for anything that would link the vehicle or the person to terrorism.

(3) The term “vehicle” also includes an aircraft, and the term “driver” includes a pilot or any person in control of the aircraft or any member of the crew.

(4) A “terrorist” in the context of these powers means a person who is or has been concerned in the commission, preparation or instigation of acts of terrorism.

(5) When selecting individuals to be stopped and searched, officers should consider the following—

- (a) deciding which power to use – if a section 26 authorisation is in place, the powers conferred by that authorisation may be used as set out in *paragraph 16(1)*.
- (b) selecting an individual or vehicle using objective indicators—
 - (i) 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?
 - (ii) 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?
 - (iii) clothing – could the clothing conceal an article of concern, which may constitute evidence that a person is a terrorist?
 - (iv) 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?

(6) Officers should be reminded of the need to explain to people why they or their vehicles are being searched.

(7) An officer exercising the power conferred by an authorisation under section 26 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. The search must be carried out by an officer of the same sex as the person being searched, unless a police officer thinks that an immediate search is necessary to prevent harm to any person and an officer of the same sex is not immediately available to carry out the search (*see paragraph 5(5)*).

Briefing and tasking

17.—(1) The stop and search powers under section 26 of the Counter-Terrorism Ordinance 2016 should be used only by officers who have been briefed about their use.

(2) Officers should use the information provided in a briefing to influence their decision whether to stop and search an individual. Officers should also be fully briefed on and aware of the differences between searches under section 26 and other search powers and the circumstances in which it is appropriate to use these powers.

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

(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.

(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.

(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 (for example, by another individual in different circumstances) in connection with terrorism.

(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 26 of the Counter-Terrorism Ordinance 2016. Officers should be reminded at the briefing of the importance of providing the public with as much information as possible 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—

- (a) the power that is being used and the fact that an authorisation is in place;
- (b) that the powers conferred by section 26 can be exercised without reasonable suspicion;
- (c) what the operation is seeking to do, for example, to prevent terrorist activity in response to a specific threat;
- (d) why the person or vehicle was selected to be searched; and
- (e) what entitlements the person has.

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

(9) 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.

(10) Officers should be given clear instructions about where, when and how they should use their powers. If a section 26 authorisation is in place, officers should be clearly tasked so that the power is used appropriately and proportionately.

(11) 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.

Avoiding discrimination

18.—(1) 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.

(2) Officers should take care to avoid any form of racial or religious profiling when selecting people to search under section 26 powers. Profiling people from certain ethnicities or religious backgrounds may lose the confidence of communities.

(3) Great care should be taken to ensure that the selection of people is not based solely on ethnic background or perceived religion. A person's appearance or ethnic background will sometimes form part of a potential suspect's description, but a decision to search a person should be made only if such a description is available.

(4) Where the approximate age and visible ethnicity of a suspect or suspects is or are identified and little else is known about that person, it is likely to be appropriate to focus searches on persons matching the description.

(5) Terrorists can come from any background; there is no profile for what a terrorist looks like.

Health and safety

19.—(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.

(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.

Photography and film

20.—(1) 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 of or to film a public building;
- (c) the police have no power to stop the filming or photographing of incidents or police personnel.

(2) Under section 26, police officers may stop and search someone taking photographs or filming 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. But an authorisation itself does not prohibit the taking of photographs or digital images.

(3) On the rare occasion that an officer reasonably suspects that photographs/film are being taken as part of hostile terrorist reconnaissance, action under section 1 of the Official Secrets Act 1911 may be appropriate 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 or filming as suspicious behaviour. The size of the camera or video equipment should not be considered as a risk indicator.

(4) 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.

(5) Seizures of cameras etc. may be made following a stop and search, only 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.

Seizure of items

21.—(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 (i.e. concerned in the commission, preparation or instigation of acts of terrorism).

(2) 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 paragraphs 24 and 25*).

(3) Anything seized must be brought before a Judge in accordance with section 46 of the Criminal Procedure Ordinance 2016. The item must be retained or returned in accordance with the directions of the Judge under that section.

Conduct of stops and searches

22.—(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 co-operate with and 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.

(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.

Steps to be taken prior to search

23.—(1) Before any search of a detained person or attended vehicle takes place, the officer must take reasonable steps to give the following information to the person to be searched or to the person in charge of the vehicle to be searched—

- (a) the officer's warrant number;
- (b) the name of the officer's police station;
- (c) that the person is being detained for the purposes of a search;
- (d) the legal search power which is being exercised;
- (e) 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);
 - (ii) the nature of the power, the fact an authorisation has been given and a brief explanation of why individuals are being stopped and searched; and
- (f) that they are entitled to a copy of the record of the search if one is made if they ask within 3 months from the date of the search and that—
 - (i) if they are not arrested and taken to a police station as a result of the search and it is practicable to make the record on the spot, then immediately after the search is completed they will be given (subject to the officer being called to an incident of higher priority) if they request either—
 - (aa) a copy of the record; or
 - (bb) a receipt which explains how they can obtain a copy of the full record or access to an electronic copy of the record.
 - (ii) if they are arrested and taken to a police station as a result of the search, that the record will be made at the station as part of their custody record and they will be given if they request, a copy of their custody record which includes a record of the search as soon as practicable whilst they are at the station.

(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 26(2) or (3). The application must be made within 12 months of the stop and search taking place.

(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 Greek, Turkish or 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 Greek, Turkish or 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.

Recording requirements

24.—(1) When an officer carries out a search in the exercise of powers conferred by an authorisation under section 26 and the search does not result in the person searched, or the 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. 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 warrant number.

(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 23(1)(f)(i)*) be given immediately, either—

- (a) a copy of the record; or
- (b) a receipt which explains how they can obtain a copy of the full record or access to an electronic copy of the record.

(3) An officer is not required to provide a copy of the full record or a receipt at the time if he or she is called to an incident of higher priority.

(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.

(5) If a search, in the exercise of any power to which this Code applies, results in a person being arrested and taken to a police station, the officer carrying out the search is responsible for ensuring that a record of the search is made as part of the custody record. The custody officer must ensure that the person is asked if they want a copy of the record, and if they do must give them a copy as soon as is practicable.

Record of search

25.—(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 25(2)*);
- (b) the date, time and place the person or vehicle was searched;
- (c) the object of the search;
- (d) in the case of—
 - (i) the powers under section 26 of the Counter-Terrorism Ordinance 2016, the nature of the power, the fact an authorisation has been given and the reason the person or vehicle was selected for search;
 - (ii) the powers under sections 24 or 25, the grounds for suspicion.
- (e) the officer's warrant number (*see paragraph 25(4)*).

(2) Officers should record the self-defined ethnicity of every person stopped according to the categories listed at Annex B. The person should be asked to select one of the 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 (for example, 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.

(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 23(1) (f) and (2)*) or if it is otherwise required.

(4) The names of police officers are not required to be shown on the search record. The record must show the officers' warrant number and duty station.

(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.

(6) The record of the grounds for making a search must, briefly but informatively, explain the reason for suspecting the person concerned, by reference to the person's behaviour and/or other circumstances, or, in the case of searches under section 26, the reason why a particular person or vehicle was selected.

(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.

(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.

(9) The vehicle must, if practicable, be left secure.

Monitoring and supervising the use of stop and search powers

26.—(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.

(2) Supervision and monitoring must be supported by the compilation of comprehensive statistical information of stops and searches. Any apparently disproportionate use of the powers by particular officers or groups of officers or in relation to specific sections of the community should be identified and investigated.

(3) In order to promote public confidence in the use of the powers, the Chief Constable should make arrangements for relevant information 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 information should take account of the right to confidentiality of those stopped and searched.

Community engagement

27.—(1) Stop and search is one of the ways in which the police can protect communities from terrorism. On-going community engagement is essential in improving relationships with the community and can help to—

- (a) increase confidence in the SBA Police 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 SBA Police, which can help to assist with investigations and ultimately the prevention of terrorist activity;
- (d) minimise any possible negative impact of police activities within communities.

(2) The SBA Police should use existing community engagement arrangements with both the local communities in the Sovereign Base Areas and the British Forces Cyprus communities.

(3) The SBA Police should liaise with the Administration about appropriate use of the media to inform and reassure the community.

(4) Use of the media is not an alternative to community engagement. Other stakeholders that the SBA Police should consider engagement with include: Community Safety Partnerships; Community Leaders; Community Councils and Neighbourhood Watch Schemes.

Retrospective and on-going engagement

28.—(1) The stop and search powers under section 26 of the Counter-Terrorism Ordinance 2016 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, the SBA Police should carry out a retrospective review of the use of the powers, including the stakeholders above.

(2) The SBA Police should continue to monitor the use of section 26 powers for the duration of an authorisation, both in discussion with the community representatives and by explaining how and why the powers are being used to individuals who are stopped and searched.

(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.

ANNEX A

Stop and search powers in Counter-Terrorism Ordinance 2016

Search of persons

24.—(1) A police officer may stop and search a person whom the officer reasonably suspects to be a terrorist to discover whether the person has in his or her possession anything which may constitute evidence that he or she is a terrorist.

(2) A police officer may search a person arrested under section 22 (arrest without warrant) to discover whether the person has in his or her possession anything which may constitute evidence that he or she is a terrorist.

(3) A police officer may seize and retain anything which he discovers in the course of a search of a person under subsection (1) or (2) and which the officer reasonably suspects may constitute evidence that the person is a terrorist.

(4) Subsection (5) applies if a police officer, in exercising the power under subsection (1) to stop a person whom the officer reasonably suspects to be a terrorist, stops a vehicle.

(5) The police officer—

(a) may search the vehicle and anything in or on it to discover whether there is anything which may constitute evidence that the person concerned is a terrorist; and

(b) may seize and retain anything which the police officer—

(i) discovers in the course of such a search; and

(ii) reasonably suspects may constitute evidence that the person is a terrorist.

(6) Nothing in subsection (5) confers a power to search any person but the power to search in that subsection is in addition to the power in subsection (1) to search a person whom the police officer reasonably suspects to be a terrorist.

Search of vehicles

25.—(1) Subsection (2) applies if a police officer reasonably suspects that a vehicle is being used for the purposes of terrorism.

(2) The police officer may stop and 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,

to discover whether there is anything which may constitute evidence that the vehicle is being used for the purposes of terrorism.

(3) A police officer may seize and retain anything which the officer—

(a) discovers in the course of a search under this section; and

(b) reasonably suspects may constitute evidence that the vehicle is being used for the purposes of terrorism.

Searches in specified areas or places

26.—(1) The Chief Constable may give an authorisation under subsection (2) or (3) in relation to a specified area or place if the Chief Constable—

- (a) reasonably suspects that an act of terrorism will take place; and
- (b) reasonably 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 police officer 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 police officer 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 police officer 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 is or has been concerned is a person falling within section 5(1)(c) (person concerned in the commission, preparation or instigation of acts of terrorism).

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

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

- (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 5(1)(c) (person)concerned in the commission, preparation or instigation of acts of terrorism).

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

(8) In this section “specified” means specified in an authorisation.

ANNEX B

Self-defined ethnic classification categories

| | |
|------------------------------------|----------------------------|
| White | |
| A. | White – British |
| B1. | White - Cypriot Greek |
| B2. | White - Cypriot Turkish |
| C. | Any other white background |
| Mixed | |
| D. | White and Black Caribbean |
| E. | White and Black African |
| F. | White and Asian |
| G. | Any other mixed background |
| Asian | |
| H. | Asian – Indian |
| I. | Asian – Pakistani |
| J. | Asian - Bangladeshi |
| K. | Any other Asian background |
| Black / Black – British | |
| L. | Black - Caribbean |
| M. | Black African |
| N. | Any other background |
| Other | |
| O. | Chinese |
| P. | Any other |
| Not Stated | |
| Not stated | NS |

ANNEX C

Authorisation to stop and search – section 26 of Counter-Terrorism Ordinance 2016

To be confirmed by the Administrator within 48 hours of time of authorisation.

Reference should be made to the guidance at Annex D when completing this form.

The SBA Police should retain a completed copy of this form for its records

Note: When confirming an authorisation, the Administrator 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 (including removing any specified area or place where more than one has been specified);
- (c) 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).

The Administrator may cancel an authorisation with effect from a time identified by the Administrator.

1. Name of authorising officer

| | |
|----------------------|-------|
| Authorising officer: | |
| Name: | Rank: |

2. Contact telephone numbers

| |
|--|
| |
|--|

3. Authorisation given under

| | |
|---|--|
| Section 26(2) (vehicles) (Please tick) [] | Section 26(3) (pedestrians) (Please tick) [] |
|---|--|

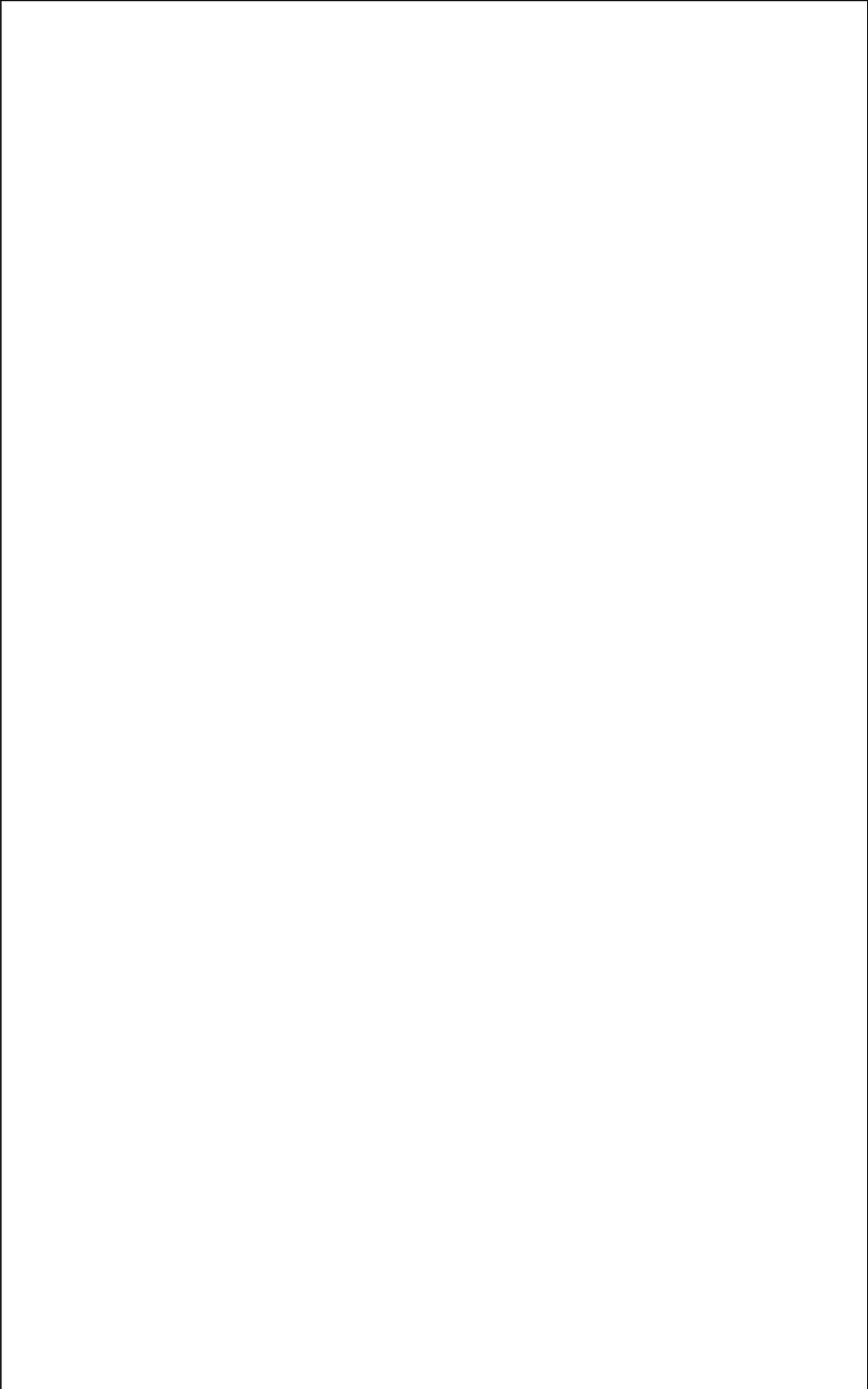
4. Meeting the test

An authorisation under section 26 may only be given where the authorising officer **reasonably suspects** that an act of terrorism will take place, and considers that authorisation is **necessary** to prevent such an act. The specified area or place must be no greater and the duration of the authorisation must be no longer than necessary to prevent such an act.

The authorising officer must confirm that he or she is satisfied that the authorisation meets the above test and provide brief reasons.

5. Suspected act of terrorism

The authorising officer must 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 Administrator, and which may be annexed to this form.



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. 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.

7. Necessity for use of section 26 powers

Explain how the use of section 26 powers is considered an appropriate and necessary response to the circumstances and why other measures are not considered sufficient.

8. Description of area or place where powers to be available

The area or place 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 should be provided with sufficient detail to allow identification of the area or place covered by the authorisation. An authorisation which covers the entire WSBA or ESBA should not be made unless there are exceptional reasons for doing so and it can be shown to be necessary.

Explain why the powers are considered necessary in that area or place.

| |
|--|
| Confirmation that map or maps of area or place within the Sovereign Base Areas is attached Please tick [] |
|--|

Description of area or place:

| |
|--|
| |
|--|

Explanation of why powers are considered necessary in the area or place:

| |
|--|
| |
|--|

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 section 26 before its use. All officers involved in exercising section 26 powers should receive appropriate briefing on the use of the powers (as set out in the Code of Practice).

(2) The extent to which stops and searches will be carried out on the basis of objective indicators supported by intelligence (for example, behavioural indicators, appearance, items being carried etc.). In certain circumstances there may be very limited objective indicators upon which to guide the use of power (for example, the intelligence does not indicate the age, sex or appearance of the suspect). The tactical use of the powers should only be used within the parameters set down in the authorisation.

12. Community engagement

Provide an account of the steps that have been, or will be, taken to engage both local communities and the BFC community 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.

13. Engagement with other police forces on the island of Cyprus

Provide an account of steps which have been taken to inform other police forces on the island of Cyprus of the authorisation.

| |
|--|
| |
|--|

14. Authorising officer

Authorisation must be made by the Chief Constable or during his absence from the island of Cyprus, the Deputy Chief Constable.

| | | |
|--|-----|--------------|
| Authorisation given under section 26(2) <i>(please tick)</i> | [] | |
| Authorisation given under section 26(3) <i>(please tick)</i> | [] | |
| Signature: | | Time signed: |
| Print name and rank: | | Date signed: |

15. Oral authorisation

If the authorisation was given orally first, please indicate below at what time it was given (and see section 14 above which provides the time and date of subsequent written confirmation)

| | |
|--------------------------------------|----------------------------|
| Date of oral confirmation: | Time of oral confirmation: |
| Authorising officer (name and rank): | |

16. (If applicable) Cancellation or amendment

If at any stage during an authorisation the authorising officer ceases to be satisfied that the test for making the authorisation is met, he or she must cancel the authorisation immediately and inform the Administrator.

The authorising officer may also amend the authorisation by reducing its geographical extent or reducing its duration. The Administrator should be informed of any such amendment.

The Administrator is not required to confirm the cancellation or amendment.

| | |
|---------------------------------------|--------------|
| Cancellation or amendment | |
| Signature: | Time signed: |
| Print name/rank: | Date signed: |
| Details of cancellation or amendment: | |
| Notification to Administrator | |
| Date: | Time: |

17. Administrator's confirmation, amendment or cancellation

The authorising officer must not assume that the Administrator's confirmation of an authorisation specified to last longer than 48 hours has been obtained until formally notified by the Administrator or his office.

The Administrator may cancel an authorisation from a time identified. The Administrator 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 areas or places).

The Administrator may confirm, cancel or amend an authorisation orally, but must confirm the decision in writing by completing the appropriate sections below.

| | |
|---|-----------------------|
| Confirmation of authorisation | |
| Date of confirmation: | Time of confirmation: |
| Cancellation of authorisation | |
| Date of cancellation: | Time of cancellation: |
| Amendment of authorisation | |
| Date of amendment: | Time of amendment: |
| Substituted end date: | Substituted end time: |
| Substituted area or place: | |
| Details of any other amendment (if applicable): | |
| Signature of Administrator: | |
| Name: | |
| Date and time: | |

The SBA Police should retain a completed copy of this form for its records.

Summary of use of section 26 during an authorisation

Dates:

Place or area:

| Action | Pedestrians | Vehicles | | | Ethnicity | | | | |
|--------------------|-------------|-----------------------|--------------------|------------|-----------|-------|-------|-------|-------|
| | | Vehicles (unattended) | Vehicles & drivers | Passengers | White | Mixed | Asian | Black | Other |
| Stop and searches | | | | | | | | | |
| Arrests | | | | | | | | | |
| Charges | | | | | | | | | |
| Property recovered | | | | | | | | | |

Comments: where appropriate to include analysis of extent of use of the powers during the authorisation.

ANNEX D

Guidance Note to authorisation of stop and search under section 26 of Counter-Terrorism Ordinance 2016

Authorisation given under section 26 [Annex C, section 3]

An authorisation may be given under section 26(2) or 26(3), or both, i.e. in respect of vehicles or pedestrians, or both. An authorisation under section 26(2) authorises any police officer 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.

An authorisation under subsection 26(3) authorises any police officer in uniform to stop a pedestrian in the specified area or place and to search:—

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

Meeting the test [Annex C, section 4]

The test for giving an authorisation under section 26 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 areas or place specified in the authorisation is no greater than is necessary and the duration of the authorisation is no longer than is necessary to prevent such an act.** The authorising officer needs to satisfy him or herself 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.

Suspected act of terrorism [Annex C, section 5]

Any classified material must be sent to the Administrator, with the authorisation, by a secure means of communication. References to classified reporting may be used instead of verbatim reports or quotes, but the reports referenced must have been considered by the authorising officer in making the authorisation, and **must** be available to the Administrator when considering whether to confirm an authorisation.

Threat Assessments on International Terrorism and Dissident Irish Republican Terrorism are provided in the UK by JTAC and the Security Service. Assessment of the threat to various aspects of the UK and SBA infrastructure, such as aviation, transport and military establishments are available locally from HQ BFC Intelligence and Security Group (ISG), and upon request ISG can

produce an assessment for specific areas or events. Such assessment should be included in this section (or annexed to this form) where appropriate. (The police **must** obtain permission, in the normal way, for the onward dissemination of classified material that has been provided by a third party).

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. The authorising officer should **not** assume that the Administrator has already had sight of the intelligence that he or she refers to in the assessments **and** must ensure that the assessments are up to date.

Successive authorisations [Annex C, section 6]

Once an authorisation has expired, a new authorisation may be given.

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 authorising officer 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.

In the exceptional circumstances where a new authorisation is given in respect of a different threat and covering different areas of the Sovereign Base Areas, any existing authorisation need not be cancelled if it continues to be necessary.

Necessity for use of section 26 powers [Annex C, section 7]

The authorisation should include details of how the exercise of the powers is necessary to prevent the suspected 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.

Given that the section 26 powers are exceptional, the authorising officer should be satisfied that other measures and powers are insufficient to deal with the situation. In particular he or she should consider whether powers under sections 24 and 25 of the Counter-Terrorism Act 2016 are sufficient for the purpose of stopping and searching individuals and vehicles for the purposes of preventing terrorism.

Description of area or place where powers to be available [Annex C, section 8]

One authorisation may be given which covers a number of different places or areas within the Sovereign Base Areas (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. Where the authorisation extends to the Sovereign Base Areas' territorial waters, the Administrator will require assurance that the exercise of the powers is in accordance with the international law of the sea.

Although the Code of Practice indicates only that a map should be provided, the Administrator is

likely to require a map, and with additional supporting description (and justification).

The Administrator will not normally confirm authorisations which cover the entire Sovereign Base Areas unless there are exceptional circumstances which support such an authorisation.

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 or place 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. It will be necessary to consider what the appropriate operational response to the intelligence is (for example, 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.

Duration of authorisation [Annex C, sections 9 and 10]

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 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. 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.

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. The authorising officers **must** assure him or herself 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).

In the event an authorisation for the use of section 26 powers is given for a period of less than 48 hours the authorising officer must inform the Administrator of the authorisation as soon as reasonably practicable. Where it is reasonably practicable to do so, the Administrator may consider the authorisation prior to its expiry and may confirm or cancel it.

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

Practical implementation of powers [Annex C, section 11]

The authorising officer should provide information about how the powers will be used and why.

This may include the use of vehicle checkpoints or stops and searches of individuals entering or leaving particular sites.

If there are subsequently significant changes to how the power is to be used, then this should be notified to the Administrator (using section 16 of the form at Annex C).

Community engagement [Annex C, section 12]

The authorising officer should demonstrate that both the local communities and the British Forces Cyprus Community have been or will be engaged as fully as possible for the duration of an authorisation. This may be through the use of existing community engagement and communication arrangements.

The SBA Police should continue to monitor the use of section 26 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.

The stop and search powers under section 26 of the Counter-Terrorism Ordinance 2016 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, the SBA Police should carry out a retrospective review of the use of the powers including the stakeholders, as set out in the Code of Practice.

Authorising officer & oral authorisation [Annex C, sections 14 and 15]

An authorisation under section 26 may be made only by the Chief Constable or, in his or her absence from the island of Cyprus, the Deputy Chief Constable. If the authorisation is given in writing, it is given in the form at Annex C. If it is given orally, it is to be confirmed by completion of the form. 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 14, timed and dated.

Administrator's confirmation, cancellation or amendment [Annex C, section 16]

The authorising officer should be aware that the Administrator may decide to cancel or amend the authorisation, which will be recorded in this section. Until written confirmation or otherwise is received from the Administrator, the authorising officer **must not** assume that the Administrator's confirmation has been given.

Summary of use of section 26 powers during any previous authorisation.

In order to aid the monitoring and supervision of the use of section 26 powers, comprehensive statistical records of stops and searches should be compiled. The details required should be provided to the Administrator on the use of the powers immediately following an authorisation.

SBA/AG/2/CR/635/1