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CODE OF PRACTICE FOR AUTHORISATION AND
THE EXERCISE OF STOP AND SEARCH POWERS
RELATING TO SECTION 5 OF AND THE SCHEDULE
TO THE COUNTER-TERRORISM ORDINANCE 2015

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Introduction

1.—(1) This Code is prepared by the Administrator under section 6 of the Counter-Terrorism Ordinance 2015 and comes into force on 19 October 2015 in accordance with the Counter-Terrorism Ordinance 2015 (Code of Practice) Order 2015.

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

(3) To set out the basic principles for the use of the authorisation and use of powers by police officers under section 5 of, and the Schedule to, the Counter-Terrorism Ordinance 2015.

(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.

(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.

(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.

(7) Section 5 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 5 powers are the most appropriate to use.

(8) 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. The only exception, where an officer does not require a specific power, applies to searches of persons entering sports grounds carried out with their consent given as a condition of entry.

Basic application of Code

2.—(1) This Code applies to any authorisation or exercise of a stop and search powers by a police officer under the Counter-Terrorism Ordinance 2015.

(2) This Code is issued under section 7 of the Counter-Terrorism Ordinance 2015.

(3) The effect of this Code is set out in section 9 of the Counter-Terrorism Ordinance 2015: 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) Powers to stop and search must be used fairly and responsibly.

(5) The Chief Constable has 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.

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

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

Scope of Code

3. This Code concerns the authorisation and exercise of powers to stop and search in specified areas or places at specified times contained in section 5 of, and the Schedule to, the Counter-Terrorism Ordinance 2015.

Definition of terrorism

4.—(1) Terrorism is defined by section 3 of the Counter-Terrorism Ordinance 2015.

(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 and 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.

Authorisation under section 5

5.—(1) This section of the Code sets out the test for making an Authorisation.

(2) The powers to stop and search under section 5 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 given by the Chief Constable or Deputy Chief Constable as authorising officer is in force (*see paragraph 5(3)*). The test for authorising section 5 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) An authorisation under section 5 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.

(4) The Administrator 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.

(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) there is a general high threat from terrorism;
- (b) 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 (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.

(9) One authorisation may be given which encompasses a number of different places or areas within the SBAs. 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 the stop and search powers in section 22 of the Police Ordinance 2007 and powers in sections 25 & 26 of Criminal Procedure Ordinance to stop and search vehicles for explosive substances, offensive weapons etc. 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

6.—(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.

(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(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 the entire WSBA or ESBA 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 5 powers receive appropriate briefing in the use of the powers, including the provisions of this Code, and the reason for the use of the powers on each relevant occasion.

(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 13 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 are generally being used on the basis of objective factors, police officers should consider whether powers requiring reasonable suspicion are more appropriate and should only use the powers conferred by a section 5 authorisation, if they are satisfied that they cannot meet a threshold of reasonable suspicion sufficient to use other police powers.

Successive or replacement authorisations

7.—(1) Once an authorisation is coming to an end, a new authorisation may be given. ‘Rolling’ authorisations are not permitted under the powers in section 5 of, and the Schedule to, the Counter-Terrorism Ordinance 2015.

(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, 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 in that force area, that existing authorisation need not be cancelled if it continues to be necessary.

Guidance for authorising officer

8.—(1) The authorising officer should always consider whether giving an authorisation under section 5 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 (although the maximum 14 days may only be authorised where necessary to address the particular threat. (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 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 5 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 5 of, and the Schedule to, the Counter-Terrorism Ordinance 2015 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.

(5) If the authorisation is to last beyond 48 hours the authorisation must be confirmed by the Administrator.

Confirmation by the Administrator

9.—(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 5 of the Counter-Terrorism Ordinance 2015 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

10. 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.

Short-term authorisation – under 48 hours

11.—(1) In the event an authorisation for the use of section 5 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

12.—(1) For the purposes of the Counter-Terrorism Ordinance 2015, 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 crew.

(2) Section 5 authorisations can specify any place or area within the SBAs, including the SBA's internal and territorial waters. Legal advice should be sought before making an authorisation which extends to the SBA's territorial waters, and the exercise of stop and search powers in territorial waters, to ensure compliance with the international law of the sea.

Exercising stop and search powers under section 5

13.—(1) When exercising section 5 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 6(7). Officers should still consider whether powers requiring reasonable suspicion in section 25 (people and places) or section 26 (means of conveyance) of the Criminal Procedure Ordinance or section 22 of the Police Ordinance 2007 are more appropriate, and should only use the powers conferred by a section 5 authorisation, if they are satisfied that they cannot meet a threshold of reasonable suspicion.

(2) Searches conducted under section 5 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 5 authorisation is in place, the powers conferred by that authorisation may be used as set out in paragraph 13(1) above.
- (b) selecting an individual or vehicle using 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?
- (c) explanation – officers should be reminded of the need to explain to people why they or their vehicles are being searched.

(6) An officer exercising the power conferred by an authorisation under section 5 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.

Briefing and tasking

14.—(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 section 5 and other search powers and the circumstances in which it is appropriate to use these powers.

(2) The stop and search powers under section 5 of the Counter-Terrorism Ordinance 2015 should only be used by officers who have been briefed about their use.

(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 (e.g. 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 5 of the Counter-Terrorism Ordinance 2015. 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 5 can be exercised without reasonable suspicion;
- (c) what the operation is seeking to do, e.g. 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 5 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

15.—(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 5 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

16.—(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

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

(2) Police officers can under section 5 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. 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/filming as suspicious behaviour. The size of the camera/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 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.

Seizure of items

18.—(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) 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.

(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 paragraphs 21 and 22*). If reasonable suspicion 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.

Conduct of stops and searches

19.—(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.

(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

20.—(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 22(1)*) 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;
- (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);
 - (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
- (d) 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 being called to an incident of higher priority (*see paragraph 21(1) to (3)*)) 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 5(2) or (3), if requested within 12 months of the stop 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

21.—(1) When an officer carries out a search under in the exercise of powers conferred by an authorisation under section 5 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 paragraphs 21(1)(d) and 21(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.

(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 21(3)*) 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 they are 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) On exercising the search power, a police officer may only arrest without warrant if any of the circumstances in section 14 of the Criminal Procedure Ordinance are applicable, or any other powers to arrest without warrant in other legislation.

Record of search

22.—(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 22(2)*);
- (b) the date, time and place the person or vehicle was searched;
- (c) the object of the search;
- (d) the nature of the power under section 5 of the Counter-Terrorism Ordinance 2015, the fact an authorisation has been given and the reason the person or vehicle was selected for search;
- (e) the officer's warrant number or other identification number (*see paragraph 23(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 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.

(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 21(1)(d) 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 or other identification 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 5 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

23.—(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 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.

(3) In order to promote public confidence in the use of the powers, the Chief Constable must make arrangements for the record 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.

Community engagement

24.—(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; and
- (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 SBAs 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 consultation. Other stakeholders that the SBA Police should consider engagement with include: Community Safety Partnerships; Community Leaders and Community Councils and Neighbourhood Watch Schemes.

Retrospective and on-going engagement

25.—(1) The stop and search powers under section 5 of the Counter-Terrorism Ordinance 2015 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.

(2) Police forces should continue to monitor the use of section 5 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 2015

Searches in specified areas or places

5.—(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 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 is or has been 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
Mixed	
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
Mixed	
O.	Chinese
P.	Any other
Not Stated	NS

Not Stated	

ANNEX C

Authorisation to stop and search – section 5 of Counter-Terrorism Ordinance 2015

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

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

Note: When confirming an authorisation, the Administrator 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);
- (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

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3. Authorisation given under:

(Please see guidance note at Annex D for details)

Section 5(2) (vehicles) (Please tick) []	Section 5(3) (pedestrians) (Please tick) []
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4. Meeting the test:

An authorisation under section 5 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, 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 he or she is satisfied that the authorisation complies with the legislative test and the provision of the Code of Practice and should provide a summary below to that effect (please see guidance note at Annex D for more details).

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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 Administrator, and which may be annexed to this form (please see for guidance note at Annex D 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 guidance note at Annex D for details).

7. Necessity for use of section 5 powers:

Explain how the use of section 5 powers is considered an appropriate and necessary response to the circumstances and why other measures are not considered sufficient (please see guidance note at Annex D for more details).

Start date:	Start time:
End date or time:	Number of days:
End date or time (for second area if applicable):	Number of days:
End date or time (for third area if applicable):	Number of days:

10. Necessity for the duration of the authorisation:

Explain why the use of section 5 powers is considered necessary for the area(s) or place(s) for the duration of the authorisation (please see guidance note at Annex D for more details).

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

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 5 before its use. All officers involved in exercising section 5 powers should receive appropriate briefing on the use of the powers (as set out in the Code of Practice) (please see guidance note at Annex D for more details).

(2) The extent to which 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.). 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, appearance of the suspect). The tactical use of the powers must, however, only be used within the parameters set down in the authorisation.

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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 (please see guidance note at Annex D for details).

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 5(2) (<i>please tick</i>)	[]	
Authorisation given under section 5(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 16 above which provides the time and date of subsequent written confirmation) (please see guidance note at Annex D).

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

16. (If applicable) 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 Administrator.

Cancellation / amendment	
Signature	Time signed
Print name/rank	Date signed
Details of cancellation / amendment	
Notification of authorising officer	
Date	Time

See paragraph 9 of the Schedule to the Counter-Terrorism Ordinance 2015 which allows the Chief Constable 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 Administrator.

17. Confirmation / amendment / cancellation:

The authorising officer must not assume 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(s) or places(s)).

Date of confirmation:	Time of oral confirmation:
Written (confirmation) (please tick) []	Oral (confirmation) (please tick) []
Date of cancellation:	Time of cancellation;
Written (cancellation) (please tick) []	Oral (cancellation) (please tick) []
Substituted end date:	Substituted end time:
Substituted area / place (see below)	
Details of amendment on confirmation / cancellation	
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 S.5 Powers during any previous authorisation

(please see guidance note and Annex D for details).

Dates (from – to):

Action	Pedestrians	Vehicles			Ethnicity [to reflect current SBAP recording policy]			
		Vehicles (unattended)	Vehicles & drivers	Passengers	White	Black	Asian	Chinese / other
Stop / searches								
Arrests								
Charges								
Property recovered								

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

ANNEX D

Guidance Note to authorisation of stop and search under section 5 of Counter-Terrorism Ordinance 2015

Authorisation given under section 5

An authorisation may be given under Section 5 (2) and/or 5(3), i.e. in respect of vehicles and/or pedestrians. An authorisation under subsection (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 (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

The test for giving an authorisation under section 5 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.** 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

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 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.

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, 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 they refer to in their assessments **and** must ensure that the assessments are up to date.

Successive authorisations

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 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.

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

Necessity for use of section 5 powers

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 5 powers are exceptional, the authorising officer should be satisfied that other measures and powers are insufficient to deal with the situation.

Description of area(s) or place(s) where powers to be available

One authorisation may be given which covers a number of different places or areas within the SBAs (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 SBAs' territorial waters, the Administrator will require assurance that the exercise of 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 sufficient supporting description (and justification).

The Administrator will not normally confirm authorisations which cover the entire SBAs 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(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.

Duration of authorisation

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.

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).

In the event an authorisation for the use of section 5 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

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.

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 this form).

Community engagement

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 5 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 5 of the Counter-Terrorism Ordinance 2015 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 set out in the Code of Practice.

Authorising officer & oral authorisation

An authorisation under section 5 may only be made only by the Chief Constable, or, in his or her absence from the island of Cyprus, the Deputy Chief Constable. 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. 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 / amendment

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 5 powers during any previous authorisation.

In order to aid the monitoring and supervision of the use of section 5 powers, comprehensive statistical records of stops and searches should be compiled. The details required in this section should be provided when giving an authorisation – in respect of the period (or most recent period) for which any previous authorisation given by that force. In addition, the SBA Police should report to the Administrator on the use of the powers immediately following an authorisation.