



# 32115 PROCEDURE - CUSTODY: PREMISES SEARCHES

Version	1.2	Last updated	06/12/2018	Review date	06/12/2019
Equality Impact Assessment			High		
Owning department			Custody		

## 1. About This Procedure

- 1.1. This procedure provides direction and guidance regarding the use of statutory premises search powers contained within sections 18 and 32 of the Police and Criminal Evidence Act 1984 (PACE) and section 44 of the UK Borders Act 2007.
- 1.2. It includes direction regarding:
  - 1.2.1. The appropriate considerations to be taken before a decision is made to conduct such searches,
  - 1.2.2. The authorisation of such searches (where necessary),
  - 1.2.3. The recording of any authority (including content, location and retention),
  - 1.2.4. The completion of a post search record (including retention).
- 1.3. All premises searches under sections 18 and 32 of PACE or section 44 of the UK Borders Act 2007 are likely to infringe an individual's human rights under Article 8 and Protocol 1 (privacy). Before any such search is carried out those conducting and/or authorising must be satisfied that the search is both necessary and proportionate to the policing purpose.
- 1.4. This procedure is not intended to be used as a substitute for training. It is essential that officers and police staff have a sound knowledge of their powers of entry and search and if necessary should refer to PACE and Code B to refresh their knowledge.

## 2. Risk Assessments / Health and Safety Considerations

- 2.1. When considering whether to authorise a search of a premises the authorising officer, in liaison with the officer to be in charge of the intended search, must take into account any known risk. Potential areas of risk include (not an exhaustive list):
  - 2.1.1. The premises occupier(s),
  - 2.1.2. The premises location,
  - 2.1.3. The nature of the articles to be searched for.
- 2.2. In any case where items to be searched for or sought include firearms, ammunition or explosives expert advice and guidance must be obtained from the Firearms Department.



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- 2.3. After any search has been authorised, or in cases where no authorisation is required, the officer in charge of the search is responsible for maintaining a continuous dynamic risk assessment throughout the entire search process.

### 3. Procedure

#### 3.1. Section 32 Premises Searches - General

- 3.1.1. The power of entry and search under section 32 is provided for police constables **only** and is **not** extended to PCSO's or police staff designated under the Police Reform Act 2002.
- 3.1.2. A section 32 entry and search may only take place after a person has been lawfully arrested at a place other than a police station. It does not require any authorisation and the decision to conduct such a search is that of the investigating officer.
- 3.1.3. In all cases where a person has been arrested for an offence the arresting officer should consider whether it is lawful and appropriate to conduct a section 32 search. In order for a section 32 search to be lawful:
- The offence for which arrested must be indictable (includes either way), and
  - The suspect must have been in the premises (includes a vehicle) when arrested or immediately before arrest, and
  - The officer must have reasonable grounds to **believe** that there is evidence on the premises relating to **that** offence.

#### 3.2. Section 32 Premises Searches – Documentation

- 3.2.1. When entering and searching premises under section 32 the officer in charge of the search must ensure that the occupier (if present) is given a copy of the Notice of Powers and Rights. If the occupier is not present a copy must be left in a prominent place.
- 3.2.2. The officer in charge of the search must ensure a premises search occurrence is created on RMS and is linked to the original RMS offence occurrence.
- 3.2.3. On completion of the search a form C73 (Search Record) must be completed and scanned on to the premises search occurrence on RMS, together with any other documentation that relates directly to the search process.

#### 3.3. Section 18 Premises Searches - General

- 3.3.1. The power of entry and search under section 18 is provided for police constables and police staff designated under the Police Reform Act 2002 **only** and is **not** extended to PCSO's. On no account should a PCSO enter under section 18 or be used to maintain a police presence at a section 18 search scene.



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- 3.3.2. Under most circumstances the written authority of an Inspector or above is required **before** a section 18 entry and search can take place (see 3.3.5 below for exception).
- 3.3.3. In all cases where a person has been arrested for an indictable offence the arresting officer should consider whether it is lawful and appropriate to conduct a section 18 search. Each case must be taken upon its own, individual circumstances. In order for a section 18 search to be lawful:
- The offence for which arrested must be indictable (includes either way), and
  - The premises **must** be occupied or controlled by the arrested person (see also 3.3.4 below), and
  - There must be reasonable grounds to **suspect** that there is evidence on the premises relating to that offence or some other indictable offence which is connected with or is similar to that offence.
- 3.3.4. Further to 3.3.3, bullet point 2 above before an officer/member of staff may enter premises/authorise the entry to premises under section 18 they must be satisfied that the detainee to which the power relates does actually occupy or control them. It is not a matter of 'reasonable suspicion' or 'reasonable belief' that they occupy or control, it goes beyond that. All reasonable checks must be made to establish occupation or control and evidence of these checks must be made available to authorising officers.
- 3.3.5. A section 18 entry and search may take place without the need for an Inspectors authority if, and only if, the presence of the arrested person at a place other than the police station is **necessary** for the effective investigation of the offence. This should not be a routine de-fault and may only take place where it is justifiable on the basis that it is necessary (not simply convenient) for the suspect to be at the scene of the search.
- 3.4. [Section 44 UK Borders Act 2007 Searches – General](#)
- 3.4.1. The power of entry and search under section 44 of the UK Borders Act 2007 is provided for police constables **only** and is **not** extended to PCSO's or police staff designated under the Police Reform Act 2002.
- 3.4.2. In all cases where a person is arrested and brought into police detention it is vital that we are confident that the true identity of that person is known. Where a person has been arrested for an offence (any offence) and constable suspects that that person is not a British Citizen and that nationality documents relating to the individual may be found on:
- Premises occupied or controlled the person, or
  - Premises on which the person was arrested, or
  - Premises on which the person was immediately before being arrested,
- 3.4.3. The constable, (subject to 3.5.3 below) may enter and search the premises for the purpose of finding those documents.



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- 3.4.4. In all cases written authority from an Inspector or above is required before any entry and search may be made under section 44.
- 3.4.5. A 'nationality document' means a document showing the person's identity, nationality or citizenship or the place from where the person travelled to the UK or a place where the person is proposing to go from the UK.
- 3.5. **Section 18 Premises Searches – Documentation**
- 3.5.1. The officer in charge of the search must ensure a premises search occurrence is created on RMS and is linked to the original RMS offence occurrence. All documentation that relates to the search will subsequently be scanned onto this occurrence.
- 3.5.2. Where ever possible an Inspector's authority should be recorded on form C74. Where this is not practicable the authorising officer may record it in their PNB and the officer in charge of the search will complete a C74. A copy of this form, together with 'Notice of Powers and Rights', must be given to the occupier of the premises or, in their absence, left at the premises in a prominent place.
- 3.5.3. The officer in charge of the search must ensure that the relevant parts of the C57 Premises Searched Booklet are completed.
- 3.5.4. On completion of the search the officer in charge must ensure a premises search record is completed (form C73 – contained within the C57 Booklet). He/she must also ensure that the C74, C73 and all completed parts of the C57 are scanned onto the search occurrence on RMS.
- 3.5.5. In all cases where the suspect is in police detention and there is a custody record when the section 18 entry and search is conducted the fact that the entry and search has been carried out and where the search authority and record may be viewed must be recorded on that custody record. It is the investigating officer's responsibility to ensure that this record is made.
- 3.6. **Entering and Securing Premises**
- 3.6.1. Whilst force may be used when entering to conduct a section 18 or 32 of PACE or section 44 of the UK Borders Act 2007 search the degree of force used must be reasonable in all the circumstances.
- 3.6.2. Any damage cause on entering and/or conducting a search must be recorded, preferably on video camera (Body Worn Video is acceptable).
- 3.6.3. Before leaving a premises after the completion of a search the officer in charge of that search must ensure that the premises are left secure. If access to the premises is damaged this may be by leaving it in the custody of an occupier or by having it secured by a relevant tradesperson.
- 3.6.4. Where a premises is damaged in order to secure entry or to conduct a search effectively officers/staff should not at that time accept liability and/or agree to pay for any damage.



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### 4. Roles and Responsibilities

4.1. See '3' above.

### 5. Administration

5.1. See '3' above.

### 6. Monitoring and Evaluation

6.1. The Central Custody Team are responsible for monitoring and evaluating this Procedure. Any difficulties identified with this Procedure should be directed to that Team.

### 7. Review

7.1. This Procedure will be reviewed annually by the Central Custody Team. This review will include consultation with 'Head of Investigations' for the Constabulary.

### 8. Other Related Procedures, Policies and Information Sources

#### 8.1. Related Policies

8.1.1. 32100 Policy - Custody

#### 8.2. Related Procedures

8.2.1. 32101 Procedure – Custody: Detainee Reception

8.2.2. 32102 Procedure – Custody: Detainee Care – Post Reception

#### 8.3. Information Sources

8.3.1. [AD203 Equality Impact Assessment](#)

**Origin:** Custody