

**Mike Robinson**

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**From:** [REDACTED]  
**Sent:** 14 June 2022 08:12  
**To:** Mike Robinson; property-enquiries  
**Cc:** [REDACTED]  
**Subject:** Without Fear or Favour.....  
**Attachments:** Alan Davies Reference for James Beevor.....; James Beevor Character Reference from Katherine Armitage.....jpg; Police Constables Oath.docx; Code\_of\_Practice\_-\_Powers\_of\_Entry\_web\_.pdf; Notice of Disconnection from Gas Company.PDF  
**Importance:** High

Dear Mike (everyone)

Thank you for your email below and for your time on Friday when you called me ahead of the email. I was grateful for your diligence and professionalism. I understand that James Beevor will be attending in person with a colleague and friend by the name of Mr Alan Davies of the Brighter Times publication. I have attached a character reference from Alan in respect of James and a second character reference from Ms Katherine Armitage who also knows James from her work on behalf of that publication.

On James's behalf I have the following representations to make. I am a non-practising solicitor and I make these comments as James' McKenzie friend having only recently had the opportunity to be fully briefed by James. I would ask that these representations are considered by the Speakers Panel ahead of the hearing this Friday 17 June 2022 which I will attend by video link. I await please that link which you kindly promised to send.

**Background**

James has given the background to the day of his arrest in his two communications sent to the Council. The facts are stark and show a businessman seeking to do his best in very difficult circumstances to protect his business, his livelihood and his property. It must be said at the outset that the facts reflect very badly on Greater Manchester Police.

In summary, a former tenant of the Molly Malone had burgled the premises and was threatening to come back and take more property that the landlord of the pub had assured James belonged to him (the landlord) and was included in the lease granted to James. The Police were called to a first incident in late March 2020 when James was being shown round by the landlord before he took the lease. The Police Constables who attended that day chose not to intervene saying it was a civil matter.

After James took the lease (in early April) the former tenant and a number of his associates returned and tried to remove a CCTV. James called 999. The would-be thieves ran away when the police car arrived but threatened that they would return. The Police Constable who attended said he would come back to take a statement. He never did. Was that just through over work, through negligence or was there some other more sinister reason?

Let us pause to reflect on those facts. A businessman has taken on the burden of ownership of this public house and has paid over some £6,000. The former tenant is in dispute with his landlord. James faces the risk of a repeat burglary. James has since been told by a neighbour of the premises that there used to be a night club in the basement to the premises and that in 2008 there was a murder by stabbing which led to the closure of that

establishment. What reputation did this establishment have with the local police and with the Council? What prejudice might there unconsciously (*or consciously*) be towards the new publican?

### ***The Incident on 12 May 2022***

It was James who called 999 around 2pm on 12 May 2022 when he confronted three men, not in uniform or showing any identification, who were seeking to enter the premises without his permission. The men referred to an unpaid gas bill. After James had called 999, he engaged the three intruders in dialogue. He put down the spear he had fashioned after the last attempted burglary and offered to show them his new tenancy agreement. This proved that he did not owe the gas company for the unpaid bill. In any civilised society one would have expected that would be the end of the matter. They would have left and James would have got on with his lawful business.

But what in fact happened?

Two Police Constables arrived and without seeking any explanations from James immediately handcuffed him and took him to the Police Station. The reason for the arrest by the Police Constables was not given.

On the way to the Police Station one of the two arresting Constables told James “You will not be running the Molly Malone” or words to that effect. Mention was made that one of the Constables knew the previous tenant and that one of that man’s relatives worked for the police. At the Police Station James was not asked for his version of events.

The adaption of the knife as a spear reflected James’s intention to show any intruders that he would protect his property and himself against burglary. There was no violent use of the spear against the unlawful intruders on 12 May. When the Police Constables arrived James had already put the spear down and it was not in sight. James had been sleeping at the premises (and was sleeping into the afternoon) when the three intruders arrived.

### ***Duties of a Police Constable***

We would all do well to remind ourselves of the Police Constables Oath as each of us never knows when we may be in need of their support: a copy is attached for ease of reference. In particular note these words of allegiance to Her Majesty the Queen as to how they will serve-

*“.....with fairness, integrity, diligence and impartiality, upholding fundamental human rights and according equal respect to all people; and that I will, to the best of my power, cause the peace to be kept and preserved and prevent all offences against people and property.”*

### ***Powers of Entry and Human Rights***

Let us remind ourselves as well of the Code of Practice in relation to Powers of Entry mandated by section 48 of the Protection of Freedoms Act 2012. This legislation was introduced in the first Queen’s Speech of the Coalition Government 10 long years ago. We remember perhaps the Rose Garden press conference in the heady days of hope of the new PM David Cameron and his Deputy Nick Clegg. A New Coalition Government seemingly concerned about the Big Society and tyrannical overreach by the State.

A copy of the Code of Practice is attached for ease of reference as is the cold and uncaring language of Notice of Disconnection served. Reading the evidence of PC Daniel Wilson we must wonder (must we not) whether the arresting Constables had been trained in the application of that Code of Practice. What is the evidence?

### ***The evidence of PC Daniel Wilson***

The following is noteworthy as to witness statement of PC Daniel Wilson:-

- 1) He makes no mention of the fact that it was James Beevor who called 999. This presumably can easily be checked before Friday’s hearing.

- 2) By his own admission PC Wilson did not ask James Beevor for his account or what had happened. Why not?
- 3) There is no evidence (beyond hearsay) that James Beevor had unlawfully threatened these three intruders.
- 4) There is no evidence that this Constable was aware of the Code of Practice or was concerned to see whether it had been followed.
- 5) How can any of this have occurred if this Constable was acting in accordance with his Oath of office?

We would also do well to note that these premises were not open for business and the implication that James has poor standards of personal hygiene is an unwarranted and irrelevant personal slur. The nature, tone and ignorance of the language are themselves very revealing.

### ***Commercial Relations between the Police and Private Enforcement Organisations***

Despite the incorrect reference to “bailiffs” in the representation of PC Foley (see below) the intruders were in fact enforcement agents. Whilst they choose (see the Notice of Disconnection) to describe themselves as *authorised officers* the intruders worked for Blackthorn Utilities a private limited company operated for profit and based in Sheffield. Doubtless these “officers” are paid according to the number of disconnections they make in a day not the number of visits.

I have asked whether there is a commercial agreement between the Manchester Police and any firms of bailiffs or enforcement agents as to attendance at premises to “support their work”. I have had no response from the Chief Constable or his office to that question but understand this ***dubious practice of Crown intimidation*** is widespread throughout the country. In the event of such an agreement the failure to disclose it and the resultant conflict of interest would be serious matter. ***Please can the Chief Constable be ordered to make that disclosure before Friday?***

Whilst there is no evidence that Blackthorn Utilities has any commercial relationship the casual use of language of PF Foley and the elevation of status of these private contractors tells us all we need to know about culture and the nature of the relationships between the Police and these *hired enforcers*.

### ***No evidence of the authority of the Chief Officer of Police***

As indicated in the report of Mike Robinson to the panel it is only in "exceptional circumstances" that an objection can be made to an application to transfer a premises licence and vary a DPS. It is specifically provided under the Licensing Act 2003 (and for good reason) that any objections in these exceptional circumstances must be made by a Chief Officer of Police. In this case that person is the Chief Constable, Mr Stephen Weston.

The evidence before the Panel is that of a representation from PC Craig Foley on behalf of Greater Manchester Police. No mention is made that this representation was made with the authority of the Chief Constable. This is a very serious procedural flaw.

### ***Representations of PC Craig Foley***

Assuming PC Foley had authority to make the representations we note he (wisely) chose not to use the “personal hygiene slur of PC Wilson” as his reason for objection.

It is only serious matters of crime and disorder which could be relevant as Mike has made clear. Beyond the disputed facts as to whether James had unlawfully threatened the three intruders who did not identify themselves, what reasons are given? First the council is invited to conclude that breach of lockdown regulations is a relevant matter. When the nation has seen how the Metropolitan Police chose not to investigate Number 10 for innumerable lock down parties we see the truly shameful double standards being applied at the highest level in the Police Force.

Reference is made to a conviction for fare dodging. That offence is regretted but it should be noted neither the breach of the lockdown nor failing to pay a fare is a “relevant offence” (see Schedule 4 to the Licensing Act 2003) that would mean a personal licence can be revoked.

It must also be noted that even if James were to be convicted of common assault (and on the evidence that seems highly unlikely) that is not a relevant offence either. So why on earth (it may be asked) was this representation against the transfer and variation made by Manchester Police?

Gross incompetence and casual disregard of human rights is never to be discounted. But is there a more sinister reason here that must be investigated.

### ***The Mayor's Office***

The Mayor's Office has asked to be kept informed of these proceedings so I am copying this email to Andy Burnham. ***I am also copying this email to the Chief Constable for his urgent attention and response before Friday's hearing.***

### ***Final Comments***

How could it be right and fair and in accordance with the rule of law that James' application for the transfer of the premises licence and its variation to include him as a DPS can be denied? It may be many months or years before the facts of this sorry case are made public. We have seen on so many occasions how the "cover up of criminality" on the part of the Police can take years to be finally revealed.

As I write you, Mike, may just have become a father. This afternoon I drive to Heathrow Airport to meet my daughter and her two precious children, my grandchildren. The freedoms for which previous generation fought hang in the balance. What sort of society do we want for our children and our grandchildren?

***Let us hope and pray that the members of this Panel will do their duty without fear or favour.***

***In hope that justice will prevail and with gratitude and love***

James

James Hunt



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**From:** Mike Robinson <mike.robinson@tameside.gov.uk>

**Sent:** 10 June 2022 17:02

**To:** [REDACTED]

**Subject:** Speakers' Panel (Liquor Licensing) - Application to transfer a premises licence and variation of DPS for Molly Malones, 4-6 George, Street, Ashton-under-Lyne

Dear Mr Beevor,

Further to our recent communication, I am emailing regarding the Speaker's Panel hearing which has been arranged to determine the above applications.

I have attached the agenda for the hearing, which includes the report and relevant appendices to be considered.

Arrangements have been made for the above applications to be heard as follows:

**Friday 17 June 2022 at 10.30am, Room 1.6, Tameside One, Market Square, Ashton-under-Lyne, OL6 6BH**

You have previously requested that provisions be made for your representatives to attend the hearing in a virtual capacity. I am pleased to inform you that this is possible, the hearing will take place at the above location and Panel members and officers will be present, however your representatives can dial into the meeting – a link will be provided in advance of the hearing next week.

I am advised that your representatives in this matter are;

James Hunt - [REDACTED]  
Chad Manian - [REDACTED]

**Can you please confirm if you will be attending the meeting in person, or would you also prefer to attend virtually?**

Kind regards,

Mike

**Mike Robinson**  
**Regulatory Services Manager (Licensing)**  
Environmental Services (Public Protection)  
Operations and Neighbourhoods  
Place

[Tameside MBC](#) | [Twitter](#) | [Facebook](#) | [Instagram](#) | [TikTok](#) | [LinkedIn](#)  
Tame Street Depot | Tame Street | Stalybridge | Tameside | SK15 1ST

Tel. 0161 342 4122  
Mobile. 07971285294  
Fax. 0161 342 2275

# Character Reference Alan Davies

**Mike Robinson**

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**From:** James Hunt <[REDACTED]>  
**Sent:** 13 June 2022 18:02  
**To:** James Hunt  
**Subject:** Alan Davies Reference for James Beevor.....

James Hunt  
[REDACTED]



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**From:** alan davies <[REDACTED]>  
**Sent:** 13 June 2022 15:21  
**To:** Katherine Armitage <[REDACTED]>; James Hunt <[REDACTED]>  
**Cc:** [REDACTED]  
**Subject:** Re: Character References from you and Alan.....

I have always found James Beevor to be honest, reliable and calm in the years that I have known him.

Yours, Alan Davies

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**From:** Katherine Armitage <[REDACTED]>  
**Sent:** 13 June 2022 14:01  
**To:** 'James Hunt' <[REDACTED]>  
[REDACTED]  
**Subject:** RE: Character References from you and Alan.....

Character ref for James B attached.

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**From:** James Hunt [mailto: [REDACTED]]  
**Sent:** 13 June 2022 06:30  
**To:** Katherine Armitage  
**Cc:** 'James Beevor'; 'Chad Manian'; [REDACTED]  
**Subject:** Character References from you and Alan.....  
**Importance:** High

Hi Katherine (and Alan)

A character reference from you and Alan would be great.

**Please can I have these by close of business today** so that I can email them to the council tomorrow? Have a brief note about your self at the beginning and the fact that James B is, you know, applying for a transfer of a premises licence of which he will be the designated supervisor. Please sign and date the reference and then scan it back to me.

Best wishes

James

**James Hunt**  
[REDACTED]



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**From:** Katherine Armitage [REDACTED] >  
**Sent:** 13 June 2022 05:18  
**To:** James Hunt < [REDACTED] >  
**Cc:** 'James Beevor' < [REDACTED] >  
[REDACTED]  
**Subject:** RE: Institutional Corruption..... re James B

Thank you for your emails. I'm copying Alan in, so that he can see the thread. I'd be happy to give a character ref for James B as well, having worked with him on Brighter Times.

I asked Stewart's (my partner) daughter Lucy if she could attend court as well but they are travelling back from Scotland on that day, they send their support and would like to meet you, they run a big pub in Thorncliffe outside Leek – The Reform.

Good luck next week,

Katherine

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**From:** [REDACTED]  
**Sent:** 12 June 2022 23:21  
**To:** James Hunt  
**Cc:** James Beevor; Katherine Armitage  
**Subject:** Re: Institutional Corruption.....

This would be a fine skeleton argument James. Perhaps it could also include a few independent character references/witnesses just to strengthen James' standing and his position as an honourable member of the community.

Best wishes  
Chad

On 12 Jun 2022, at 08:42, James Hunt <[REDACTED]> wrote:

Hi again James

A quick follow up to me email below (this time copied to Katherine so she can forward it to Alan).

Can I check who told you about the historic murder and stabbing at the pub? I had a quick look online and could not see any press coverage of such events.

Best wishes

James

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**From:** [REDACTED] >  
**Sent:** Sunday, June 12, 2022 8:00:49 AM  
**To:** James Beevor <[REDACTED]>  
**Cc:** Chad Manian <[REDACTED]>  
**Subject:** Institutional Corruption.....

Hi James

I was pleased to here that Alan (of Brighter Times) is going to support you in person at next Friday's hearing, I confirm that I will join the hearing by Zoom link as agreed with Mike Robinson of Tameside Council.

I do not have Alan's email address but by copy of this email I am asking Katherine to forward it to him. It would be great if Alan could call me. You/Katherine can give him my mobile number [REDACTED] and say I am available today and on Monday before 11.15am or after 3pm and on Tuesday before 9.45am and from 5pm to 7pm.



You asked whether the adaption of a knife might be an offence under recent legislation. Your question followed what was said on your recent arrest.

My research this morning reveals nothing to support that assertion by the arresting officer. Knife crime was the subject of new legislation recently (see link below) but this has no relevance to your situation.

In the circumstances the question arises whether adaption of your knife (by fastening it to a pole) goes to premeditation in relation to the charge of common assault. The argument might be made by the prosecutor that your actions were evidence of preplanning and intent to frighten an intruder.

Here is my analysis:-

- the adaption would appear to reflect your anxiety, to defend yourself and your business: you were wanting to keep any intruder at arm's length
- the incident, when a few days before you had been present when the former tenant had forced entry to take equipment at the pub, was the cause of your anxiety
- you were sleeping at the premises to defend your business premises from a burglary
- you have no record of any crime of violence
- you used the implement to defend yourself and your premises from unlawful intruders
- the bailiffs were unlawful intruders unless you invited or allowed them to enter which you expressly did not
- you behaved reasonably in offering to show the bailiffs that you were a new tenant not responsible for the old tenant's unpaid water bill
- you called 999 to seek the support of the police to prevent a breach of the peace
- the police constable (Daniel Wilson) when he arrived was suspicious of you and your motivations
- you are asking the Police Complaints Authority to investigate your concern that the arresting constable acted in breach of his oath to keep the peace and unfairly sided with the bailiffs who had unlawfully entered your premises
- the police constable's witness statement shows that he is evidently ignorant of common law and regarded your behaviour as irrational and bizarre.
- the witness statement by police constable Daniel Wilson with reference to the stale smell in the premises (you had been sleeping overnight to protect the premises from another burglary) has no relevance to whether you are a fit person to be a designated person. The premises were not open for business and the implication that you have poor standards of personal hygiene is an unwarranted personal slur.
- this slur was not included in the reasons initially given by the Chief Constable in his report to the licensing authority. Embroidery, it may be assumed, included simply to prejudice the panel members perceptions of you
- as indicated in the report of Mike Robinson to the panel it is only in "exceptional circumstances" that an objection can be made to an application to transfer a premises licence and vary a DPS can be made. This objection must be made by the Chief Officer of the Police.
- there is no evidence that Chief Constable, Stephen Weston, himself made the objection. Rather, the evidence before the Panel is that of a representation from PC Craig Foley on behalf of Greater Manchester Police. No mention is made that this representation was made with the authority of the Chief Constable. This is a very serious procedural flaw.
- the fact that your fine for breach of lockdown regulations is given as a reason to prevent you running the Molly Malone public house shames our country. It also

shames the police force at the very highest level: 120 fixed penalty notices were issued for Number 10 breaches 12 months after parties that were known to the police officers admitting the party goes through the security gates to Downing Street.

- do the Police expect the citizens of this country to accept that James Beevor should be ruined financially, with lockdown regulations given as a reason, whilst the Prime Minister and his Chancellor continue in office?
- what has our country come to when the officers of the council decide to support the shameful conduct of Manchester Police in your unlawful arrest and financial ruin.
- A further fact should be noted. Since you took on the lease of the Molly Malone you have learned that the basement was in the recent past a night club. This was closed down after a murder on the premises and the serious stabbing of another person.
- section 53A of the Licensing Act 2003 as amended allows the Chief Constable to apply to the magistrates court for a premises licence to be revoked where the premises are "associated with serious crime or serious disorder or both". To your knowledge no such application was made by the Chief Constable in respect of that murder or stabbing. Why was that?
- The Chief Constable must be asked to attend in person on Friday to respond to these serious matters on behalf of himself and Greater Manchester Police.
- Mike Robinson (whose paternity leave is imminent) very helpfully called me on Friday to explain the procedures to be followed next Friday. I will ask him/his assistant to circulate this note to the Panel which is only fair as the panel have seen the case against the applications and only your (lay) response.
- the police constables who give evidence will not have to do so under oath. Whilst this means perjury cannot be committed for falsehoods uttered on Friday, conspiracy to pervert the course of justice could be the subject of a private prosecution against any relevant officers.
- I asked Mike where you would stand if the panel decide in favour of the police. The answer is that you would have the right to appeal to the magistrates court (within 21 days) but Mike thought the date for your appeal hearing might be 3 to 6 months hence.
- In the meantime your obligations to pay rent and outgoings on the pub continue. In this regard I note that the landlord has offered to accept £25,000 for a surrender of the lease. This would leave you £31,000 out of pocket.
- The only saving grace is that these losses would perhaps be a recoverable head of loss in any legal proceedings for unlawful arrest and misfeasance in public office.

The question of whether the proper procedures were followed by the Chief Constable and his office is also one that I will seek to question at next Friday's hearing. The making of a report to seek to prevent the transfer and variation of a premises licence (which would inevitably cause a business owner significant loss) must require the most careful consideration of the circumstances.

At least that is my assumption in any society that still regards itself as a liberal democracy and that respects the rule of law. The legislation makes it clear that it is a decision for the Chief Constable himself. One may expect that Mr Stephen Weston is a busy man but failure to ensure proper procedures have been put in place to ensure he could properly make a decision in accordance with his duties to act, is something that may need to be considered by a court of law.

In regard to proper procedures there are, it seems to me, three highly relevant factors. First, did the Chief Constable consider the fact that you hold a personal licence and to revoke that licence was only possible on conviction of a relevant offence: you have not been convicted and indeed common assault is not even a relevant offence under the Licensing Act 2003. Was this a matter that he considered in his deliberations?

Secondly, does Manchester Police have an undisclosed commercial agreement with the bailiffs' company. This question has been asked and not answered by the Chief Constable or his office. If this is the case the implication is of lack of impartiality and bias. The word of the bailiffs (in an undisclosed commercial venture with the Manchester Police) has been preferred to that of an innocent man whose business premises were the subject of unlawful entry.

Thirdly, it is very noteworthy that the police report fails to mention that you called 999. The fact of that call can very easily be established. Indeed if I was in the panel I would insist that this fact is checked before next Friday's hearing. I would also want to know why this highly pertinent fact was not disclosed in the report from the police.

This case raises very important policy questions about the way that Manchester Police operate. Whilst not immediately relevant to Friday's hearing there is evidently an urgent need to investigate this organisation which is paid for out of taxpayers money.

The Mayor's Office has indicated they will be following these proceedings. The implication at best is of a culture of casual disregard of the oaths of office of all Police Officers involved in this affair and of a failure to act impartially and professionally in its submissions to the council. The suspicion raised by your case is, though, of a much more serious situation: a Police Force that is institutionally corrupt.

Please can you and Chad let me know if you have any comments on the above analysis.

Chad, I am thinking that I email the above as my "skeleton argument" to be placed before the Panel ahead of Friday's hearing. I suggest it is sent with the same title as this email and is be copied to Andy Burnham's office, Angela Raynor and the press.

Feel free to call me today to chat this through.


Best wishes

James

<https://www.cps.gov.uk/legal-guidance/offensive-weapons-knives-bladed-and-pointed-articles>

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Cranleigh House Wellness Centre



13<sup>th</sup> June 2022

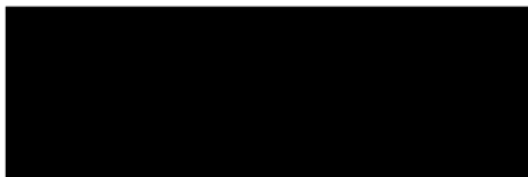
To whom it may concern

**Character Reference for james beevor**

I understand that james is applying for a transfer of a premises licence of which he will be the designated supervisor.

I have worked with James on the design team of a magazine, I can vouch for his good and honourable character.

Yours sincerely,



Katherine Armitage

Date: 026 6AQ  
Your account number: 1215122  
Address: 2000101926



# Notice of Disconnection from Gas Company

4-6 George St  
026 6AA

Dear Occupant /Owner/Occupier,

Blackthorne Utilities are authorised officers acting on behalf of, and under the instruction of your Energy Provider, Yu Energy. Your premises were visited today with a Warrant of Entry obtained under the provisions of (as applicable) the Rights of Entry (Gas and Electricity Boards) Act 1954, Schedule 6 of the Electricity Act 1989 as amended and Schedule 2B of the Gas Act 1986 as amended.

- A SMART Meter has been fitted. If the meter key/card has not been left, sufficient emergency credit has been added pending arrival of your card in the post. Please allow 3 working days.
- A Pre-Payment Meter has been fitted. If the meter key/card has not been left, sufficient emergency credit has been added pending arrival of your card in the post. Please allow 3 working days.
- We have disconnected the supply at your property under the provisions of (as applicable) Schedule 6 of the Electricity Act 1989, as amended, Schedule 2B of the Gas Act 1986, as amended.
- Due to unforeseen circumstances your supplier notified us to leave your property without altering or changing your energy supply/meter in any way. We have taken a reading from the meter.

Current/final Gas Read: 12633 Current/final Electric Read:           
Previous Gas Meter Serial Number: 64A00428780901  
Previous Electric Meter Serial Number:         

To discuss the contents of this letter and what actions are required to restore your supply or to discuss any aspect of the content of this letter/actions taken contact YU Energy on 0115 975 8258.

## **Police Constables Oath**

“I do solemnly and sincerely declare and affirm that I will well and truly serve the Queen in the office of constable, with fairness, integrity, diligence and impartiality, upholding fundamental human rights and according equal respect to all people; and that I will, to the best of my power, cause the peace to be kept and preserved and prevent all offences against people and property; and that while I continue to hold the said office I will to the best of my skill and knowledge discharge all the duties thereof faithfully according to law.”



Home Office

# **Code of Practice**

## Powers of Entry

December 2014

# **Code of Practice**

## Powers of Entry

Presented to Parliament pursuant to Section 48 (1)(a)  
of the Protection of Freedoms Act 2012

December 2014





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# 1 Purpose and Scope

- 1.1 This Code of Practice is issued by the Secretary of State under Section 48 of the Protection of Freedoms Act 2012 (the Act). Under Section 51 of the Act a 'relevant person' must have regard to this Code when exercising any functions to which the Code relates. A failure on the part of any person to act in accordance with any provision of this Code does not of itself make that person liable to criminal or civil proceedings. However, the Code is admissible as evidence in any such proceedings and any failure by a relevant person to have regard to the Code may be taken into account.
- 1.2 Powers of entry and associated powers are important tools that facilitate the protection of the public from harm, enable the effective investigation of offences and allow for the necessary enforcement of regulations. The Code provides guidance and sets out considerations that apply before, during and after powers of entry and associated powers are exercised including those circumstances where entry is exercised with the consent of an occupier. The purpose of the Code is to ensure greater consistency in the exercise of powers of entry and greater clarity for those affected by them while upholding effective enforcement.
- 1.3 Powers of entry and associated powers (such as search and seizure) are intrusive in nature and may engage rights enshrined in the European Convention on Human Rights.
- Article 8 states that any interference by a public authority with the right to respect for private and family life must be in accordance with the law and necessary for one of the stated purposes, e.g. for the prevention of disorder and crime.
  - Article 1 of the First Additional Protocol states that no one shall be deprived of their possessions except in the public interest and subject to the conditions provided by law.
- 1.4 Relevant persons should consider whether the necessary objectives can be met by less intrusive means.
- 1.5 This Code applies to powers of entry and associated powers as specified under any Act or Statutory Instrument other than devolved powers of entry and devolved associated powers. Devolved powers of entry and devolved associated powers are powers:
- (i) in relation to which the Welsh Ministers may issue a code under Schedule 3 of the Act,
  - (ii) which, if it were contained in an Act of the Scottish Parliament, would be within the legislative competence of that Parliament, or
  - (iii) which, if it were contained in an Act of the Northern Ireland Assembly, would be within the legislative competence of that Assembly and would deal with a transferred matter (within the meaning given by section 4(1) of the Northern Ireland Act 1998).

## 2 Exceptions

- 2.1 **The Code does not override specific statutory powers to conduct routine inspections or to enter premises for enforcement purposes nor does it apply where the power of entry is granted through an order of a court where that order is made under court powers defined in legislation. (This is distinct from an existing power of entry being exercised following authorisation by a warrant of a court).**
- 2.2 **This Code does not apply to the entry to premises for purposes and in circumstances which are subject to a separate statutory Code of Practice.**
- 2.3 For example, PACE Code B, issued under section 66 of the Police and Criminal Evidence Act 1984 (PACE) relates to the search of premises and seizure of property by police officers. Section 67(9) of PACE 1984 requires persons other than police officers who are charged with the duty of investigating offences or charging offenders to have regard to that Code. Paragraph 2.5 of that Code states that it does not apply if the exercise of a power is not dependent on the existence of grounds for suspecting that an offence may have been committed and the person exercising the power has no reasonable grounds for such suspicion. Therefore in circumstances where that Code does not apply, and if no other relevant Code does apply, then relevant persons should have regard to this Code.
- 2.4 It may be the case that the circumstances requiring entry to premises change during the course of a visit. For example, a routine inspection carried out under this Code of Practice may reveal suspicion of an offence having been committed. The purpose of the visit may then become a search for evidence of the offence. This may require that this Code ceases to apply and the exercise of powers be continued under PACE Code B.
- 2.5 **The guidance and considerations at sections 6-7, 10-12 and 14-25 of this Code need not apply where a relevant person is acting as a private individual. A private individual should act reasonably and with respect for persons and property when exercising a statutory power of entry.<sup>1</sup>**

## 3 Avoiding Discrimination

- 3.1 The Equality Act 2010 makes it unlawful to discriminate against, harass or victimise any person on the grounds of age, disability, gender reassignment, race, religion or belief, sex, sexual orientation, marriage or civil partnership, pregnancy or maternity in the discharge of an authorised persons powers. This applies to the exercise of powers of entry.

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<sup>1</sup> The considerations described in these sections need not apply in these circumstances as they depend on the relevant person being part of a public authority or other organisation.

## 4 Definitions used in this Code

- 4.1 **‘Relevant person’** means any person exercising a power of entry or associated power, other than a devolved power of entry or devolved associated power, unless such exercise is subject to a separate Code of Practice (however described) issued under any enactment (whenever passed or made.)
- 4.2 **‘Power of entry’** means a power (however expressed) in any enactment to enter land or other premises; and includes any safeguard which forms part of the power.<sup>2</sup>
- 4.3 **‘Associated powers’** means any power which:
- a) is contained in an enactment
  - b) is connected with a power of entry, and
  - c) is a power:
    - i. to do anything on, or in relation to, the land or other premises entered in pursuance of the power of entry,
    - ii. to do anything in relation to any person, or anything found on the land or other premises entered in pursuance of the power of entry, or
    - iii. otherwise to do anything in connection with the power of entry,
 and includes any safeguard which forms part of the associated power.
- 4.4 **‘Premises’** is defined under section 46 of the Act and includes any place and, in particular, includes:
- a) any vehicle, vessel, aircraft or hovercraft,
  - b) any off-shore installation,
  - c) any renewable energy installation,
  - d) any tent or movable structure
- 4.5 ***The following are definitions for the purpose of this Code:***
- 4.6 **‘Authorised persons’** means a person authorised to exercise statutory non-devolved powers of entry (titles other than ‘authorised persons’ used in legislation where the Code applies are to be treated as meaning the same).
- 4.7 **‘Dwelling’** means any premises ***wholly or mainly*** used as place of residence or abode (including any garden, yard, garage, outhouse or other appurtenance of such premises which is not used in common by the occupants of more than one such dwelling);<sup>3</sup>
- 4.8 **‘Occupier’** refers to a person who is or appears to be in charge of the premises;
- 4.9 **‘Owner/landowner’** refers to the person owning the premises;

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<sup>2</sup> This does not include terms in tenancy agreements that are implied by statute, for example, it would not apply to section 11(6) Landlord and Tenant Act 1985.

<sup>3</sup> Adapted from s53 of the Health and Safety at Work Act 1974.

- 4.10 **'Authorised person in charge'** means the authorised person assigned to lead the search, inspection, sampling etc. One authorised person must act as the authorised person in charge whenever powers of entry are exercised.

## 5 Availability/monitoring and changes to the Code

- 5.1 Section 49 of the Act requires the Secretary of State to keep this Code under review and enables the Secretary of State to alter or replace the Code. This Code and any subsequent replacement Code will be published on the GOV.UK website and relevant persons must have regard to it.

The remaining sections of this Code set out the considerations that should apply to the exercise of powers of entry and associated powers (not subject to other codes) before, during and after their use. It applies to entry to premises during routine inspections, in addition to powers of entry exercised for enforcement purposes. Authorised persons should continue to adhere to requirements in relevant statute while having regard to the Code. This Code also applies where legislation is silent on particular matters or where relevant legislation provides fewer safeguards than those provided here.

## 6 Authorisation and approval

- 6.1 The exercise of powers of entry should be provided for by the relevant legislation.
- 6.2 There should also be a proper process of approval for the exercise of powers of entry, whether for specific visits or for programmes of visits. If an approval process is laid out in legislation, this should be followed, otherwise organisations should ensure that an approval process is in place for the exercise of powers of entry. Where routine inspections or visits for large scale operations are involved, processes should be agreed and approval granted by a senior official or manager (this should be someone sufficiently senior in the chain of command who is authorised to approve the exercise of powers). It is not necessary for every individual visit to be separately approved.
- 6.3 Authorised persons and processes for the approval of the exercise of a power of entry should be periodically reviewed to ensure that persons and management processes are appropriate.

## 7 Providing notice of rights to occupiers

- 7.1 Where it is judged necessary to exercise a power of entry authorised persons should generally provide a Notice of Powers and Rights in a standard format to the occupier. This should include:
- whether the entry will be conducted with or without a warrant;
  - the powers of entry and associated powers used;
  - the occupier's rights;
  - any compensation or complaints procedures that exist; and
  - where a copy of this Code of Practice may be obtained.
- 7.2 In appropriate cases, compensation may be payable for damage caused by entering and searching premises. In such cases authorised persons should explain any compensation procedures.
- 7.3 Examples of where it may not be necessary to provide a Notice of Powers and Rights to occupants are:
- Routine checks on vehicles at ports where a check or search is brief, the person concerned consents to the search and no issues of concern arise, or routine checks on ships or aircraft where no occupant with responsibility for the ship or aircraft is present.
  - Where powers are exercised routinely with the consent of the occupier or where the premises are readily accessible by the public (e.g. trading estate) or where the entry is solely to gain access to other premises.
- 7.4 Relevant powers should however be explained where this is requested.



## 8 Entering premises

### Advance notice

- 8.1 Where it is appropriate and practicable to do so, reasonable notice (usually not less than 48 hours or as specified in relevant legislation) should be provided to the occupier or landowner of the intention before exercising a power of entry. Where legislation specifically provides that no notice need be given, authorised persons should nevertheless still consider whether notice could be provided, and where appropriate provide this, where it will not frustrate the purposes of exercising the power of entry.
- 8.2 Where notice is provided this should set out the purpose of the proposed entry and date and time when it is proposed that the power should be exercised.
- 8.3 If pre-notification of a visit would defeat the purposes of exercising powers, officers, provided they have the statutory power to do so, can still visit unannounced. There will also be occasions on which notice is clearly not practicable, for example in respect of routine vehicle searches in ports or where routine frequent visits are made to the same premises.
- 8.4 In the context of powers of entry for the purposes of inspecting an institution / service provider, it may be necessary to conduct an unannounced inspection in order to gain a genuine picture of ordinary day to day processes relating to that institution / service provider rather than a manufactured or pre-prepared impression. Unannounced visits may also be necessary for the purpose of safeguarding children and other vulnerable groups.
- 8.5 Reasonable notice need not be given where the purpose of the entry is the initial safety investigation in the aftermath of an accident, incident or other emergency where there is an urgent need to investigate the circumstances/causes of the accident, incident, or other emergency or to maintain public safety.

### Consent

- 8.6 Reasonable effort should also be made to obtain the consent of the landowner or occupier,<sup>4</sup> unless obtaining consent would frustrate the purpose of the exercise, for example by causing undue delay. It is important that consent is informed and that the occupier is notified about the purpose of the visit and, for exercising the powers of entry and associated powers, what these powers are and how they will be used. Where consent is sought but not obtained (the occupier refuses or obstructs entry, contact could not be established with the occupier or the premises were unoccupied at the time) authorised persons should record their attempts to obtain consent as a matter of good practice.
- 8.7 If consent is withdrawn by the occupier at any time, the right to enter the premises should be clearly explained to him or her and also the consequences or penalty for obstructing authorised persons when exercising their legal powers. Where consent

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<sup>4</sup> Whether consent is sought from landowner or occupier will depend on the nature of the power of entry and the nature of the premises in question.

is not given it may still be possible to exercise lawful authority to enter, where this is based either on specific statutory powers or judicial authority such as a warrant.

## **9 Number of persons present**

- 9.1 Relevant persons should consider the number of persons needed for the exercise of powers of entry and associated powers to be carried out effectively. The number of persons present should reflect what is reasonable and proportionate in the circumstances.

## **10 Private dwellings**

- 10.1 Where the relevant legislation requires, an authorised person must obtain the occupier's consent or obtain a warrant, court order or other judicial authorisation in order to enter premises used as a private dwelling.
- 10.2 Where the relevant legislation provides the authorised person with a specific power to enter dwellings with no requirement for a warrant/court order etc, the power should only be used where necessary and proportionate and on the approval of the appropriate person in authority, unless entry is required urgently to protect life or property from harm.

## **11 Entry without consent or a warrant**

- 11.1 Where it is proposed to exercise a power of entry without seeking consent, and without a warrant, authorised persons must follow the conditions set out in statute granting them entry and, before deciding to exercise powers, should consider whether the object of entry might be achieved by less intrusive alternative means.
- 11.2 On arrival at the premises, the authorised person exercising the power of entry should make reasonable attempts to make contact with the occupier of the premises, or the person appearing to be in charge of them, unless doing so would frustrate the purposes of entry. He or she should show them suitable identification and explain in straightforward language the purpose of the visit and their powers.
- 11.3 If that is not possible, for example because the premises are unoccupied or no person is present, wherever possible, written notice setting out the purpose of entry should be left in a prominent place on the premises.

## **12 Entry under warrant**

- 12.1 Where it is proposed to exercise a power of entry under warrant, the procedures set out in the legislation providing the power must be followed. Authorised persons need to consider all available intelligence before applying for a warrant, such as taking reasonable steps (as practicable) to verify that the information is accurate, recent and not provided maliciously. An application to the court for a warrant should

generally be supported by a signed written authority from a senior official or manager (this should be someone sufficiently senior in the chain of command who is authorised to approve the exercise of powers) within the relevant authority.

## **13 Timing of exercise of powers**

- 13.1 The exercise of powers of entry by a relevant person should only be undertaken at reasonable hours (reasonable hours should be determined by reference to the normal working practices of the particular business concerned e.g. entry at night might be considered reasonable for a business that has overnight deliveries). Where appropriate, for premises used as a dwelling, any entry should be at a time agreed in advance with the occupier. However, this need not apply where the power of entry is being exercised in accordance with a judicial warrant.

## **14 Seizure of property**

- 14.1 In many cases powers to seize property will be subject to PACE Code B however where powers to seize property are subject to this Code the following considerations should apply. An authorised person may only seize property where such powers granting the right to seize objects or items are clearly set out in relevant legislation. The power of seizure will be determined by the relevant legislation and this should be carried out to create minimal burden and distress to the occupier of the premises subject to the requirements of enforcing the legislation.
- 14.2 Unless the legislation states otherwise, an authorised person should provide the occupier of the premises with details of the items seized, procedures relating to the retention of property, appeal rights, should disclose how long items may be held before they are returned (although counterfeit, illegal or hazardous items may be destroyed) and should explain any compensation procedures.

## **15 Retention of property**

- 15.1 Unless the process for retention and/or destruction of seized property is provided for under a relevant statutory provision, anything seized may be retained only for as long as is necessary. Property should not be retained if a copy or image would be sufficient.
- 15.2 Generally, property may be retained, among other purposes:
- for use as evidence at a trial for an offence;
  - to facilitate the use in any investigation or proceedings to which it is linked;
  - for forensic examination or other investigation; or
  - in order to establish its lawful owner when there are reasonable grounds for believing it has been stolen or obtained by the commission of an offence or its ownership is otherwise in dispute.

- 15.3 The occupier or their representative should be allowed supervised access to the property to examine or photograph it, or should be provided with a photograph or copy, in either case within a reasonable time following any request and at their own expense, unless the authorised person in charge has reasonable grounds for believing this would:
- prejudice the investigation of any offence or criminal proceedings;
  - lead to the commission of an offence by providing access to unlawful material; or
  - compromise the personal safety of security staff and/or the security of storage facilities.
- 15.4 In exceptional circumstances, and in the interest of the personal safety of an individual, access to lawfully held property, for example, medication or personal items left in a seized vehicle should be made available to the individual.
- 15.5 A record should be made of the grounds for denying any such request.

## 16 Other persons

- 16.1 Anyone accompanying an authorised person under their authority onto premises should be encouraged to abide by this Code as a matter of best practice. The authorised person should ensure that he/she has the right to take that person on to the premises before doing so.

## 17 Conduct

- 17.1 Where a power of entry is exercised without the consent of an occupier an authorised person should identify themselves clearly to the landowner or occupier (where present) by showing his/her authorisation or other means of formal identification (except in situations where the safety of authorised personnel would be compromised by doing so), disclose their authority to exercise the power of entry and explain clearly the purpose of the visit. When requested to do so, he/she should:
- give his/her name and the name of his/her organisation; and
  - provide an official contact address and telephone number.
- 17.2 Whilst exercising powers an authorised person should:
- not exercise any powers other than those granted under legislation;
  - comply with the requirements under relevant legislation including relevant safeguards;
  - exercise their powers reasonably and courteously and with respect for persons and property;
  - be impartial and fair at all times;
  - comply with any restrictions on seizure e.g. legally privileged material;

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- only **use reasonable force** where this is expressly permitted under the legislation that provides the power of entry and before doing so be satisfied that it is both necessary and proportionate in the circumstances and
- be clear about what associated powers may be exercised (such as powers to inspect, search, seize or survey) and exercise those legally and fairly.

17.3 In many cases powers to search for evidence of an offence will be subject to PACE Code B however where powers to search are subject to this Code premises should be searched only to the extent necessary to achieve the purpose of the search. In particular:

- The search should no longer continue once the object of that search has been achieved or it is clear that whatever is sought is not on the premises.
- Searches should be conducted with due consideration for the property and privacy of the occupier with no more disturbance than is necessary.
- When **reasonable force** is lawfully permitted it may be used only when justified and because the co-operation of the occupier cannot be obtained or is insufficient for the purpose. In all cases where a power authorises the use of force, only the **minimum force necessary** to achieve the purposes of the power may be used.
- When only one person is present on the premises at the time when a power is to be exercised, a friend, neighbour or other person should be allowed to witness any search that is undertaken if the occupier wishes and where it is practicable to do so, unless the authorised person in charge of the entry has reasonable grounds to suspect that this would seriously disrupt the purposes of the entry, or would lead to an unreasonable delay in its exercise.

17.4 Unless taking such steps would frustrate the purpose of the visit, when exercising powers to enter business premises authorised persons should:

- seek to minimise the potential for causing reputational damage to businesses, particularly where the high visibility of operations, for example during peak business trading hours, may give rise to customer concerns; and
- have regard to businesses' ability to continue legitimate trading operations and seek to cause as little disruption to the legitimate conduct of business as possible, where that is reasonably practicable.

17.5 The landowner or occupier may accompany authorised persons during the course of a visit if it is not explicitly restricted by the relevant statute or, in the opinion of the authorised person in charge, it would not interfere with the purposes of the visit.

17.6 If an authorised person requests that a landowner / occupier does not accompany him/her during the visit he/she should give that person clear reasons, for example health and safety issues.

## 18 Assistance from occupiers

18.1 In certain circumstances, an occupier should give an authorised person reasonable assistance if required by the authorised person to do so (for instance opening locked doors or containers). If an authorised person requires such assistance from an occupier, the authorised person should give the person clear instruction as to

what assistance is required and make that person aware of why, in the authorised person's opinion, the person is required to give that assistance and whether non-compliance carries a sanction under the relevant legislation.

## 19 Leaving premises

- 19.1 If premises have been **entered by force**, before leaving, the authorised person in charge should make sure the property is left as secure as possible and in as close to the original condition before entry as practicable.

## 20 Action after exercise of powers

- 20.1 The authorised person in charge of the exercise of a power of entry should make or have made a record of any exercise of powers of entry or associated powers. This is particularly important where powers of entry are used for enforcement purposes. Generally, a record should include:

- the statutory provision under which the power was exercised;
- the approval process that allowed for the exercise of the power of entry, and whether it was exercised with or without a warrant;
- the address of the premises entered;
- whether the occupier granted consent and what attempts were made to obtain consent;
- the date, time and duration that powers were exercised;
- the names of those involved in exercising powers and names of any other persons present (if known), unless operational imperatives are sensitive and require that the names of those involved are withheld or not disclosed;
- any grounds for the refusal of any requests made by an occupier;
- a list of any items seized, and if not covered by a warrant, the grounds for their seizure;
- whether **reasonable force** was used; and if so, why;
- details of any damage caused and the reason / circumstances; and
- details, where known, of premises crossed to gain access to other premises.

- 20.2 When powers are exercised under warrant, following its use, the record should show as a minimum:

- the name of Justice of the Peace or judge / judicial authority issuing the warrant;
- the date and time the warrant was executed, and if present name of occupier or person in charge of the premises;
- names of authorised persons executing warrant and anyone accompanying them;
- whether a copy of the warrant (together with Notice of Powers and Rights) was handed to the occupier, or, left on the premises and where;

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- whether any articles specified in the warrant were found, and their location,
- whether any other articles were seized;
- advice provided to the occupier about consequences of any obstruction; and
- information about any obstructive conduct by an occupier.

20.3 A briefer record may be appropriate in certain situations such as routine inspections or visits or where the occupier consents to the visit and no issues of concern arise. Such records should nevertheless make clear the statutory power being exercised and details of the purposes and outcomes of the inspection or visit.

20.4 In the case of routine checks on vehicles at ports, where a check or search is brief, the person concerned consents to the search and no issues of concern arise, it may not be necessary to maintain a record of the search. Operational discretion should be exercised, bearing in mind the possibility that a challenge to the legal justification for, or conduct of, the search may be raised at a later date.

## **21 Register of exercise of powers**

21.1 Ideally, a register should be maintained containing the record of exercise of powers of entry or associated powers under paragraph 20 of this Code.

## **22 Conflict of interests**

22.1 An authorised person should notify his / her manager immediately if any situation arises which might reasonably be perceived as a conflict of interests.

## **23 Complaints**

23.1 Any complaints procedures should be explained in straightforward language to the occupier of the premises including explaining where they might obtain further information from or a copy of this Code of Practice.

## **24 Staff training**

24.1 Authorities should ensure that all relevant persons are familiar with this Code of Practice.

## **25 Further information**

25.1 Further copies of this Code are available from the GOV.UK website  
<https://www.gov.uk/powers-of-entry>

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