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Property

This Service Instruction provides guidance for Officers and Staff in respect of the seizure, handling, storage and disposal of property.



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1. Aim

The Police Service of Northern Ireland (PSNI) has a consistent and accountable approach to the seizure, retention and disposal of evidence-related property.

This Service Instruction ensures that:-

- Property is seized when it is appropriate and that it is handled, recorded and stored professionally;
- The integrity of evidence is maintained;
- The retention and disposal of all property is critically reviewed;
- A quality service is provided to the public; and
- The health and safety of all those involved in the handling of property is protected.

2. District / Departmental Governance

Local Property Management Committee, (LPMC)

Each District/Department will have a LPMC to direct on all aspects of property management. The LPMC will meet, as a minimum, on a quarterly basis and is

chaired by the District Commander or nominated representative from the relevant District or Department. It should comprise of representatives from District Services Support, Property Inspector and District or Department Property Managers. The LPMC implements Service Instructions, ensures operational compliance, manages District/Departmental business and is the conduit to the CPMG.

District/Departmental Property Inspector

This is a portfolio based role with accountability to the chair of the LPMC. The Property Inspector is responsible for overseeing the effective operation of District/Department Property Management in line with Service Instructions and best practice.

One of the main functions will be to carry out District/Departmental (Branch) Quarterly Property Inspections to establish if property is being dealt with in compliance with established protocols including:-

To test the integrity of the NICHE/ HOLMES records against the property. This will involve tracing a sample of property from NICHE/ HOLMES to the Property Stores to assess the integrity of the information recorded on NICHE/ HOLMES with regard to the nature, labelling and location of the property;

To test the integrity of the property against the NICHE/ HOLMES records. This will involve tracing a sample of property from the Property Stores to NICHE/ HOLMES records to assess the integrity of the information recorded on NICHE/ HOLMES with regard to the nature, labelling and location of the property, (if a decision is made to retain pre-NICHE property, which is not on HOLMES, a record should be created on NICHE);

To test the integrity of the packaging of property both in the Property Stores and in Area Transit Stores, e.g. has it been labelled and packaged appropriately and check that no property is being kept outside designated storage areas;

To test if the property is stored in a secure location in line with Health and Safety requirements and to test if the controls within the Property Stores are adequate to ensure the safety and integrity of the property including compliance with cleaning schedules;

To test the process for weeding property to ensure that property is being disposed of in a timely manner. This will involve the collation of statistics to highlight the percentage of property which should have been disposed of against the amount which has actually been disposed of (this may be

on a dip sample basis where property has been authorised for disposal). Also included will be analysis of “Closed Occurrences” Reports where property should have been authorised for disposal, and where queries regarding property reviews have not been satisfactorily progressed by those officers responsible;

To test the audit trail of disposed items to ensure the integrity of systems. This will involve selecting a sample of disposed property and ensuring that its disposal is properly documented, relating to return, destruction, auction, charitable or other disposal;

To test if exhibits resulting from Serious and Organised Crime investigations - apart from transitory arrangements – are being migrated to the Serious Crime Exhibit Store (SCES), in compliance with service instruction and guidelines regarding offence categories.

To test whether appropriate continuity signatures/records have been completed for the control and transportation of all property. This will involve selecting a sample of exhibits and ensuring that, at each stage where the property has been transferred, e.g. to Forensic Science Northern Ireland (FSNI) or from one station to another, there

is an appropriately completed continuity label/ NICHE record.

Ideally the Property Inspector will be located proximate to the main stores. Given that this role is portfolio based normal line management arrangements for this role should prevail.

Property Managers

Each one is responsible for the day to day management and control of Property Stores within their remit. Their role includes monitoring and implementing current Service Instructions and guidelines for the management of property. They also have responsibility for managing property staff. Property Managers will ensure the provision of/compliance with, Health & Safety guidelines within their sphere of responsibility and where appropriate, risk assessments are carried out. They are responsible to their District/Department Property Inspector and are expected to work closely with police officers and staff to ensure compliance with organisational guidelines and instructions. They must provide regular management information to their District/Department Property Inspector in relation to all property matters. They will liaise with Department/District Services Support Managers in relation to all Lost and Found property issues and where property is available for disposal. Clear police line management structures for

Property Managers must be agreed by each District/Department dependent on local circumstances.

Property Officers

Each individual is responsible for:-

- The safe keeping and handling of all property delivered to them.
- The examination of property for ownership marks/forensic identifiers.
- Maintaining the integrity and continuity for evidence- related property.
- Maintaining accurate records of items in the NICHE/ HOLMES property system, including current location and movement of items.
- Maintaining management information.
- Assisting in the returning or arranging the disposal of property in accordance with current property instructions.

Property must not be disposed of by any means other than those described in the current property procedures unless at the direction of, or with the express permission of, the chair of the LPMC.

Under no circumstances should property be transported to other sites via the internal mail system. Property Officers should not

use their own private vehicles to transport items of property.

Drugs

Managed Service Property staff under The Misuse of Drugs Regulations (Northern Ireland) 2002, section 6 (7) (f) can convey drugs to a lawful person. Managed Service staff can transport drugs and collect them; if they are conveying the drug to a lawful person it would seem that they could submit them to forensics if by “submit” it means physically transport. Having a key to storage locations where drugs are held will not be appropriate as the circumstances in which a person other than a constable or other lawful person can possess controlled drugs are limited.

Firearms, Ammunition and

Explosives

Only police officers and appropriately trained and authorised police civilian support staff can control, possess and manage such items. Managed Service staff would not qualify as *members of the police support staff* and therefore cannot handle firearms or explosives.

Local Health and Safety Risk

Assessors

It is the responsibility of the District Commander to ensure that all work activity within their control is subject to a suitable

and sufficient risk assessment. Local Risk Assessors are appointed to assist with this task. To assure that there is sufficient “job knowledge” and competence brought to the risk assessment, it is recommended that it be undertaken by persons involved in the role and trained in risk assessment. This risk assessment can be based on PSNIGRA 106 - Special Property/Exhibits Stores which should be adapted and tailored to suit local circumstances/systems of work.

It is the responsibility of the District Commander/Officer in Charge of the Premises to ensure that the Property Store is included within the quarterly premises health and safety inspection regime.

In order to encourage and maintain best practice in relation to the receipt, storage and disposal of hazardous substances which are brought into police custody, Crime Scene Investigation (CSI) or Health and Safety Branch should be consulted in any cases of doubt regarding the storage and handling of potentially hazardous and heavy items in any property storage facility.

Harmful Substances

These are any items which have been recovered from a Chemical, Biological, Radiological or Nuclear incident and

require particular care prior to acceptance into a property store.

The CBRNe Service Instruction (SI 0717) specifically highlights that unprotected responders, and this includes follow-up staff, must be protected from the risk of contamination. This includes in the transport and storage of such materials to and from property stores and the handling inside property stores.

As a result please note:

- Where the nature of the hazard is unknown, contaminated materials or chemicals (solids, liquids or gels) – These should not be accepted unless they are appropriately packaged and advice on their storage has been obtained.
- Where the nature of the hazard is known - storage must be in compliance with relevant regulations. Be aware of the specific safety guidance around Fentanyl /Carfentanyl.

For 24 hour emergency response or urgent advice and guidance please contact: Person and vehicle index. In the unlikely event that the PSNI reactive callout process fails, urgent advice and guidance can be obtained from the National CBRN Centre.

Inspectors

Inspectors are responsible for police officers and police staff under their command with regard to all property entering into the possession of the PSNI. They must ensure that:-

- Items are not unnecessarily retained in the property system. To this end it is important that Supervisors take responsibility for actively reviewing property when changing the status of occurrences in compliance with procedures.
- Those necessary enquiries to trace property owners are undertaken without undue delay.
- Storage and retention of property is monitored proactively by way of the relevant review processes with the emphasis on disposal rather than retention.
- All correspondence regarding property (e.g. officer tasks for reviews, property progress enquiries from Property Managers/Property Inspectors on OEL) are dealt with promptly.
- Retention is authorised (in writing) beyond current property guidelines, only when lines of enquiry are being actively pursued, or there is some other specific reason for continued retention.

- They give written authority for the storage of evidence- related property in the form of cash. The occasions when this is necessary should be rare and will only be undertaken where the officer in charge specifically requests it.

Inspectors are accountable to the chair of the LPMC for their District/Department in matters pertaining to property. They will work in liaison with both local Property Managers and the District/Departmental Property Inspector to ensure compliance with property procedures.

Police Officers/Police Staff/Managed Services Staff, Officer Responsible (OR)

Each individual has overall responsibility for any property they seize (or receive) and for ensuring that:-

- An accurate property record is created within NICHE (and/or HOLMES where appropriate).
- The integrity and continuity of the property is maintained.
- It is packaged and labelled correctly to ensure:
 - The maintenance of integrity
 - The prevention of cross contamination

- The prevention of loss or damage.
- The Health and Safety of anyone who may need to handle the item during transit and storage.

- It is stored securely and safely **only** in officially recognised storage facilities and its storage location accurately reflected in NICHE/HOLMES and notebook entries.
- It is retained in line with legal requirements of Article 24 of the Police and Criminal Evidence (NI) Order 1989 (PACE), the Criminal Procedures and Investigations Act 1996 (CPIA), and any relevant PSNI directives (see [Section 5](#)).
- Its continued retention is reviewed in line with procedure (see [Section 4](#)) and it is disposed of as soon as there is no longer any requirement to retain it. This will include appropriate disposal following court proceedings. **The Investigating Officer (IO) should always request a Disposal Order in the ‘outline of case’ if appropriate.**

The Officer Responsible (OR)

The OR is defined as the officer responsible for the property. At District level this is usually the IO but in large enquiries this role may be the responsibility of an Exhibits & Disclosure Officer (EDO) or other exhibits officer. This officer is

responsible for property reviews regarding the return, retention or other disposal of the property.

If the OR changes this must be notified by the previous OR via OEL to Property staff who have the NICHE/HOLMES access level to change the OR.

If **Property staff** do not fill in the “**Officer Responsible**” details on NICHE, then this infills from the “Seizing Officer” details not the IO. Property staff must ensure:

- The “Officer responsible” field is completed with the correct details.
- Enquiries to trace the owners of unidentified property are carried out in a timely manner.
- Property received into Property Stores is subjected to examination for selectaDNA/smartwater markers, Ultra Violet markers and any other form of marking as practicable and appropriate.
- Property is returned to the owner/finder (if known and appropriate) without undue delay.

It is the responsibility of Supervisors to ensure that NICHE/ HOLMES is updated with details of any new OR/ IO at the earliest opportunity. This creates

robustness of review processes for the continued retention of property.

Recording of Property

The PSNI will make a record of the following categories of property:-

- Evidence- related property: i.e. property believed to be evidence of a crime or suspected crime occurrence or has been obtained in consequence of the commission of a crime. This includes items taken from a prisoners' personal property for examination purposes or retained by police in relation to an investigation.
- Lost Property.
- Found Property.
- Property retained for safe-keeping purposes.

Property will be recorded on the NICHE Records Management System unless the property is being managed and recorded via HOLMES.

All staff are reminded that any entry made against a living individual's name is subject to the requirements of the Data Protection Act 1998, including the requirements to ensure the entry is accurate, relevant, kept up to date and kept secure.

The named individual will also be entitled to exercise their right of access to the information pertaining to them.

3. Seizure – Evidence-Related Property

It is important that officers understand the powers that they are exercising when they seize property.

Seizure is covered by Article 21 of the Police and Criminal Evidence (Northern Ireland) Order 1989, (PACE).

- Article 21 provides for power of seizure for investigative and evidential purposes.
- Article 21(2) (a & b) permits seizure of criminal property (i.e. property obtained in *consequence* of a crime).
- Article 21 (3) (a & b) permits seizure of evidence of a criminal offence.
- Article 21 does not extend to and has no relation to the powers of forfeiture that rest with the court under Article 11 of Criminal Justice (NI) Order 1994 (forfeiture of property used in crime).

- Article 21 provides a power to a constable lawfully on premises to seize anything if he has reasonable grounds for believing the item either (1) has been obtained in consequence of the commission of an offence or (2) is evidence in relation to an offence which they are investigating or any other offence; *and* it is necessary to seize the item in order to prevent it being concealed, lost, damaged, altered or destroyed.

Seizure is necessary under Article 21 if the police consider that it is the practical and sensible option, e.g. to prevent alteration of the forensic evidence: *Re Grew (Aidan) (Leave Stage)* [2011] NIQB 130.

An officer, when deciding whether or not to seize property, must decide which power they will utilize to seize the item.

Property *obtained in consequence* of a crime can include for example proceeds of a burglary, but can also include a car, or a boat, bought with the proceeds of a crime, e.g. drug money, or from selling the proceeds of the burglary. This is because the crime would have been concealing, converting etc. criminal property under s327 Proceeds of Crime Act (POCA) and the property (car or boat in this example)

would have been obtained in consequence of the commission of that criminal offence.

When an item is seized, the owner's right under Protocol No.1, Article 1 of the European Convention on Human Rights (ECHR) is engaged: *every natural or legal person is entitled to the peaceful enjoyment of his possessions*; a public authority cannot deprive a person of their property unless the law allows; the right is a qualified right so interference can occur if there is some legal provision for interference and the interference is also proportionate and necessary in a democratic society.

As an alternative to seizure, consider that a constable may photograph or copy the item, PACE Code B.7.5.

The powers under Article 21 do not extend to items used in the commission of an offence unless they would amount to *evidence* of the offence. Even if the item that is used in the offence is also evidence, as soon as an item is seized, the power under Article 21 is no longer relevant and the powers of retention under Article 24 of PACE must be engaged.

Initial Seizure - Considerations for the Investigating/Seizing Officer

- The offences are being investigated.
- Whether the property adds to the total knowledge of how the offence was

committed, who may have committed it, and why.

- Whether the seizure of property is necessary to prove the case.
- What property is best to seize, **to obtain the best evidence.**
- Whether the property could support an alternative explanation or defence, given the current understanding of events surrounding the offence.
- How much property for analysis purposes, should be seized, given limitations on forensic submissions - particularly in volume crime cases.
- What the potential consequences will be if the property is not preserved.

If material with an evidential value has been destroyed, there is a likelihood that a court may stop the prosecution for abuse of process. Whilst it is not necessary to retain every item obtained or generated during the course of an investigation, any doubt should be resolved in favour of retention – this is not the same as ‘just in case’. If in doubt seek advice from the Forensic Case Manager, a supervisor, experienced investigator or the PPS.

Consider that, in appropriate cases, material may be photographed, video-recorded, captured digitally or otherwise

retained in the form of a copy (if the original is perishable or the original was supplied to the investigator rather than generated by him and is to be returned to its owner) or the retention of a copy rather than the original is reasonable in all the circumstances, (PACE Codes of Practice B 7.5).

Follow Up Seizures

Where during the course of or following a scene examination other property items are removed (e.g. finger marks, CCTV etc.) or created (photographs, maps etc.) it will be the responsibility of the PSNI officer/staff member dealing to ensure information on the material is immediately or as soon thereafter updated against the relevant occurrence in NICHE (and/or on HOLMES) and linked appropriately. Furthermore that details are brought to the attention of the OR/IO dealing with the crime or suspected crime occurrence so that he/she can consider and where necessary direct upon any further forensic or investigation work required.

The OR or other nominated staff dealing must also have NICHE/HOLMES updated on any **sub-exhibits** brought to his/her attention held by forensic, fingerprint or other examination agency.

Property Retention Record

In all cases when the Officer Responsible/other staff, seizes/receives property from a member of the public, whether it is found, safekeeping or evidence-related, it is important that specific property management information is captured and that the individual is provided with appropriate information at the time and also has access to the related Occurrence Number. This assists compliance with the Victim Charter standard and ensures that resources are not wasted in the future on tracing the rightful owner when police no longer require the property. It also assists the individual to make enquiries regarding developments around the prospect of having the property returned.

When seizing items which are likely to be the subject of chemical treatment or otherwise damaged, a disclaimer should, where appropriate, be obtained at the time, depending on the circumstances. This should take the form of:-

"I am aware that items may be subject to chemical treatment or may be damaged during forensic testing and that there is no provision for the payment of compensation where forensic testing has been carried out under PACE legislation."

It should be noted that if a claim is subsequently made, where the Claimant is believed to be an innocent party, consideration will be given to an ex-gratia payment where this is recommended by a District Commander.

Evidence- Related Property

Procedure

Legislative provision and evidential investigative requirements dictate that police officers have a responsibility to seize, record and retain material obtained in a criminal investigation which may be relevant to the investigation, (PACE and Criminal Procedures and Investigation Act 1996, CPIA)

All evidence- related real property including CCTV discs must be correctly packaged, sealed and endorsed with an identification number. The signature and service number of the seizing officer together with the occurrence number must also be included. This process must be completed as soon as practicable, in order to prevent contamination and preserve continuity.

Appropriate containers or packaging must be employed where necessary (e.g. knife tubes). If in doubt advice and guidance should be sought from the Property Staff or local Crime Scene Investigation, CSI.

If paper documents are required for indented handwriting enhancement/ fingerprints the seizing officer/OR must ensure that any notes added to the evidence bag are not written over the document, adding more indented writing. The preferred approach for this type of exhibit is to enclose in a flat box. If not available then documents should be placed inside a card folder before being placed in a tamper proof evidence bag.

Photographs being submitted to FSNI for comparison, such as a photograph of a footwear mark also need to have an identification mark and be appropriately packaged before submission to FSNI.

There are very specific requirements for packaging of exhibits contaminated with Asbestos - PSNIGRA 77 Asbestos and other dusts encountered at scenes(ACM - Asbestos Containing Material) (Dec 14) Advice on forensic sampling and packaging is available on Policenet, Crime Scene Investigators page, Packaging Aide-Memoire.

When multiple items have been recovered for the same investigation; only when packaged securely to preserve integrity should they be grouped in open bags or boxes for ease of transport to secure property storage and further processing.

Evidence- related property should be recorded on police systems as soon as practicable after a search. Items should then be signed out for only as long as they are needed for any interviews and then placed back in secure storage.

All evidence- related property coming into the possession of police or police staff must be logged onto NICHE and bar coded at the earliest opportunity (unless managed via HOLMES). Such property must only be stored in officially designated secure storage locations and not in personal lockers or other unofficial storage locations.

Submission of Evidence- Related Property to Property staff.

In the case of evidence- related property where property staff are not available to receive the property directly, the following process will be followed (the underlying principles will apply equally if property management is via HOLMES rather than NICHE):

Ensure all evidence- related property is correctly packaged, sealed and labelled.

The identification label that Police attach to either the item of seized property, or the bag/ box that is used to exhibit the seized item, should have a full description of the property on it, in capital letters, and all the

relevant fields completed including service number.

Police Officers should make a full notebook entry in relation to seizing the property, transferring it to another Officer, if relevant, or depositing the property in a Transit Store to prove continuity of the item.

If there is a member available who has the relevant authority (such as an SEA) the property should be logged directly onto NICHE property. The description an officer has put onto the label/bag/box must remain the same on NICHE and this also applies to any subsequent FSNI Forms. A workflow will be sent to property staff informing them of the location of the property for collection and details of the "Officer responsible" for the property.

Officers are reminded that any other member logging the property onto NICHE will be inputting details at their request. The seizing officer or OR remains responsible for protecting and preserving evidential continuity - unless they correctly transfer the property to another officer/staff member against signature and complete a notebook entry. This remains the case until the item is received and acknowledged by a District/Department Property Officer. If there is no one available to log the items onto NICHE the seizing officer/OR should

workflow property staff stating in the OEL all the identification numbers of the property for collection, their location and the 'Officer Responsible (OR)' – this will ensure there is some record of the property within NICHE at the earliest opportunity.

Officers must not leave evidence- related property with SEAs or in a location which is not secure.

If there are to be interviews conducted which requires the use of the evidence- related property it should be placed in secure storage within the Custody Suite, under the control of the Custody Officer. Any officers accessing the property should sign the identification label for continuity and full notebook entries should be made.

As soon as possible the property should be placed in a secure locker in the Transit store. This should be locked and the key posted into the key safe and property staff work flowed with the details as above.

Districts/Departments must ensure that robust evidential continuity arrangements are in place for handling very large items which may not fit into transit lockers.

Property staff will collect all evidence- related property lodged in transit stores and check against the identification numbers

provided via OEL. They will also quality check descriptions etc. when they are barcoding/processing the property.

If property is not barcoded but is appearing on the NICHE property tab any file that is subsequently sent to the PPS will not send until the items are properly bar coded.

Property for FSNI submission is classified on NICHE as "Evidential Item".

To check if property has a barcode, to notify Property staff that property has been left in a transit store, to search for all property an officer/staff is responsible for or to conduct a Property review, see NICHE Help Guide and also the FSNI Submission Overview for assistance.

4. Reception and Handling of Property Staff/Officers

Receiving Property into Property Stores

Property staff will quality assure the packaging of each evidence- related property item against forensic evidence best practice regardless of whether being submitted to another agency/unit. This includes integrity/continuity and use of correct packaging materials to ensure health and safety and best evidence.

Property staff will notify the officer and their Supervisor of any deficiencies before

progressing. Any unresolved matters will be raised with the Property Inspector.

When property is accepted into the Property Store the Identification label will be signed and dated by property staff.

Upon entering the Property Store the property should, if possible and without interfering with the integrity of any packaging, be examined for the presence of any overt or covert markers which may identify the owner of the property, where this is not known or ownership is in question, see Searching For Property Owners - Property Marking. Where any identification markers are discovered the OR should be work flowed to initiate further action.

All property must be barcoded by Property staff/CSI (unless being managed via HOLMES). The barcode label should be stuck onto the packaging, ensuring that it does not obscure any other labels or annotations. If this is not possible, the barcode should be fixed onto the 38/30 label which should be attached to a plastic cable tie that can be secured to the item. The description of property on NICHE must be exactly as recorded on the evidence bag.

Original CCTV disks in the same way as crime scene photographic disks should be

barcoded. The physical barcode should be attached to the disk case or bag, not the DVD/CD itself. The barcode number should be written on the non-reading surface of the DVD/CD at the first opportunity the disk is accessed post bar coding and the fact that this has been done recorded.

All movement of property by property staff from one location to another must be recorded accurately within NICHE unless HOLMES is being utilised. Property staff will sign and date the identification label when they transport property from any Property Store to any other location, such as FSNI.

On receipt of property, both Couriers and Property staff receiving the property must reconcile items to NICHE/HOLMES. This will ensure consistency within the property transfer process, strengthen controls in terms of officer accountability and enable potential discrepancies to be identified and investigated at an early stage.

If there are signs of tampering or discrepancy (to include items missing or torn or open bags), the receiving Property Officer may refuse to accept the property and in all cases will notify their immediate supervisor or Duty Inspector. The receiving Property Officer will ensure that NICHE/HOLMES property records are

updated to show the appropriate store location (shelf/rack number etc.) of the property.

Property Movement -Temporary Removal of Property (other than transit to another Property store or FSNI)

Any movement of evidence-related property from a Property Store must be recorded on NICHE/HOLMES. The reason and date should be recorded and electronic signature/identification label signed by the person receiving it - if calling personally at the Property Store.

If the property is being left for collection in a transit store the person transporting it to the transit store must sign and date the identification label and the person taking possession of the property from the transit store must always sign and date the identification label for continuity and make a notebook entry. In HOLMES cases the person receiving the property will likewise sign the identification label and HOLMES records will be updated by property staff.

When the property is returned to the Property Store, NICHE/HOLMES will be updated by the Property Officer and they will sign/date the identification label.

Crime Exhibit Property - Production for Court

Police officers must always notify the relevant Property Store at least seven working days in advance if they require crime exhibit property for court. The actual notice provided should take into consideration the location where the property is stored, volume of property required and necessary security and transportation arrangements.

The officer/staff removing property from the Property Store, whether for further investigation or production at court, is responsible for returning the property to an official Property Store, unless they correctly transfer the property to another officer/staff member against signature and complete a notebook entry. If it is returned to a transit store then property staff shall be work flowed with the OEL stating the date and time put in the transit store, location and identification numbers of the property for collection.

Continuity

Continuity of evidence is critical in all prosecution cases. This is particularly relevant for cases being tried on indictment in the Crown Court. Continuity evidence proves the integrity of the evidence by showing for example that no one had an opportunity to tamper or alter the evidence before it was examined. It

accounts for the time exhibits have been in the control of police. This includes the seizure, storage and transfer between officers and onward transit to FSNI or Fingerprint Branch

Continuity statements are served on the Defence and should include:-

- Details of exhibits being placed in NAMED "Transit Stores/Safes" and when this occurred.
- Details of exhibits being moved by Property staff from NAMED Transit stores to NAMED Property Stores/safes and when.
- Details of exhibits being transported from NAMED Property Stores to FSNI or other agencies/units and when.
- Details of exhibits being removed/returned from NAMED Property Stores for purposes of interview, etc. and when.
- Details of exhibits being sent from FSNI to laboratories in GB for testing and when.

It is imperative that continuity statements reflect the movement shown on the identification label and NICHE/HOLMES records.

Lawyers have previously highlighted occasions of officers/staff referring to stores/transit stores by different names

where they have lodged/removed exhibits. This makes the continuity ambiguous. It is important that each District/Department has specifically named stores which each officer/staff member/property officer can collectively refer to.

On occasions evidence-related property has been forwarded to GB laboratories for testing by FSNI staff to avoid delays in examination. In such cases staff at Seapark will provide a continuity statement outlining the property has been forwarded by secure courier post. They will refer to the Unique Delivery Docket in the outline of their statement and provide a copy of this "docket". These documents should be attached to the electronic file.

All forensic evidence-related property sent for examination to outside agencies other than FSNI must first be entered onto the NICHE property system and updated with where the exhibit has been sent to. The officer in charge must ensure every item of forensic evidence-related property has an accompanying identification label which must be endorsed with the relevant NICHE occurrence number AND that every item has a NICHE barcode label attached to it. This will help ensure that when the exhibit is returned by the examining agency that there is no difficulty in tracing its origin.

FSNI require property managers to attach a 'return to' label, in all cases, to each item submitted to them for ease of return.

Any specific queries regarding evidential continuity issues should be directed towards PPS liaison or the Forensic Case Manager as appropriate.

5. Flagging of Evidence-Related Property Items and Review/Weeding

Legislation Relevant to Retention and Review of Evidence- Related Property

Article 24 of the Police and Criminal Evidence (Northern Ireland) Order 1989:

- Once something has been seized under Article 21 PACE, it can only be retained so long as is necessary, in accordance with Article 24 of PACE. Article 24 (1) provides a general and wide power for police to retain seized items so long as is necessary in all the circumstances. There are further provisions which go towards defining what is 'necessary':

(2)[...] (a) anything seized for the purposes of a criminal investigation may be retained, except as provided by paragraph (4) -

(i) for use as evidence at a trial for an offence; or

(ii) for forensic examination or for investigation in connection with an offence; and

(b) anything may be retained in order to establish its lawful owner, where there are reasonable grounds for believing that it has been obtained in consequence of the commission of an offence.

(4) Nothing may be retained for either of the purposes mentioned in paragraph (2) (a) if a photograph or copy would be sufficient for that purpose.

- If the physical item is needed for use as evidence in trial, it can be retained. If a photograph, video or photocopy would suffice, the physical item cannot be retained – for example, when there is something about the use/perception of the property in the crime that means the evidence would not be conveyed to a satisfactory level by video or other image to the jury or judge.
- Consideration must also be given to the requirement to rebut potential defences.
- '*so long as is necessary in all the circumstances*' means as long as is necessary to carry out the purposes for which the powers of seizure under Article 21 had been conferred. It follows that even if the Public Prosecution Service decides not to prosecute an offence, evidence may be retained if the

police deem that in the circumstances it is reasonably foreseeable that another public or private body may choose to investigate, institute and prosecute the offence; see *Scopelight Ltd v Chief of Police for Northumbria*.

- In practical terms, Article 24(2)(a)(ii) means that if forensics are completed or if there is no possibility of gathering evidence from investigating the property in some other way, or if a photocopy, photograph or video could be used for investigative purposes, then property should be returned.
- If there is any doubt as to whether an item will be needed for use as evidence in trial or is needed for investigative purposes, guidance should be sought from the Forensic Case Manager, an experienced investigator or PPS directing officer. Examples where doubt may arise would include, if there is a co-accused who may wish to inspect the evidence, a defence statement requiring inspection of the evidence, or if it seems that the photograph/copy/video will not sufficiently represent the evidence.
- In practical terms, Article 24(2)(b) means that any property which has been seized can be retained if the below two criteria are met:
 - The lawful owner is not known or is in doubt; and

- There are reasonable grounds for believing that it has been obtained in consequence of the commission of an offence.

Both these criteria must be met and both are bound by reasonableness. If there is no reasonable prospect of identifying the lawful owner, the property must be returned. This is a test defined in case law and it applies even when there is strong evidence that the person from whom the property was seized is not the lawful owner or they obtained the property in consequence of a criminal offence. Similarly, if a no prosecution decision has been taken, there is no reasonable ground to believe the property has been obtained in the consequence of an offence.

- Police are entitled to retain seized property obtained in consequence of the commission of an offence, e.g. money laundering, until the criminal investigation is complete and any confiscation order under Part 4 of POCA has been satisfied. Retention would be 'necessary in all the circumstances to prevent its loss etc. Each individual case must be dealt with on its own facts and circumstances to ensure that the required necessity exists.

- Any application by the person from whom the property was seized or its owner can be tested in the court by way of an Application under s31 of the Police (Northern Ireland) Act 1998. Police will be called upon to show that necessity in all the circumstances exists, (see [Section 6](#)).
- The offences which would lead to property being obtained are often dishonesty offences: theft, handling stolen goods, forgery, money laundering, conversion of criminal assets etc. However, to retain the property police must be satisfied they have evidence to support their belief the offence occurred and resulted in the property obtained and it will also be essential to consider if the 'lawful owner' can be established.

Article 24 of PACE is clear that the specified grounds for retention are not an exhaustive list. The suggested grounds are stated 'without prejudice to the generality of paragraph 1' and it is under paragraph 1 that the main ground for retention is set out as 'so long as is necessary in all the circumstances'. It may be explained to a court that there is some other reason which necessitates the retention of the property. In such circumstances, each case will be advised upon and decided on its

merits – the officer should seek legal advice from PSNI Legal Services Branch.

'Necessary' requires that there is no alternative power of retention or similar provision to address the issue.

In order to ensure that the PSNI comply with Article 24 PACE and the Victim Charter standard, ORs/IOs and Supervisors are responsible for conducting periodic reviews of the continued retention of property.

Flagging and Review of Evidence-Related Property on NICHE

Supervisors are required to manage and quality assure NICHE occurrences in accordance with Occurrence Status Guidance. This includes conducting periodic reviews of all open occurrences with their officers.

Each time an occurrence status is changed the further retention of any outstanding property linked to that occurrence shall be reviewed. If the reason for the retention of any property no longer applies then this must be communicated via workflow to property staff by the OR.

One of three Property Review options may be selected:

1. Return to owner/finder
2. Retain
3. Dispose (other)

SERVICE INSTRUCTION

When an Occurrence is closed (FPFE /NFPA, Police Disposal, Resulted – NICHE Admin) outstanding property linked to it will be removed from police storage via Option 1 or 3 above unless there are compelling reasons for continued retention. Where continued retention is necessary the OR will provide the rationale and work flow to their Supervisor who will approve the reason on the OEL by selecting “Property” from the OEL picklist and work flowing to Property staff with a suggested further review date. In the case of volume crime property the Supervisor will also ensure the Inspector’s details who provided the written authority for continued retention has been pasted into the OEL. It is particularly important that when there is a non-Court disposal all linked property is reviewed and disposed of in line with CPIA guidance.

At the point of barcoding property, Property staff will link the investigating officer or OR to the “Property review” flag for the occurrence and set a manual expiry date of 11 months from the occurrence. When the flag expires, Property staff will workflow the OR to conduct a “Property Review” of all of the outstanding property linked to the occurrence. This flagging is to assist ORs in the management of their property and the workflow cannot be accidentally deleted by the OR. This new flag is available to property staff as follows:-

With the occurrence open:

- Tasks/flags
- Right click
- New – Flag
- Select Property Review from list
- Put on expiry date and tick notify on expiry
- Link your property whiteboard

End the flag if all property connected with that occurrence is disposed of before the flag expires. At 11 months the OR will receive the task to review the property attached to the occurrence if it has not already been disposed of/new property review flag set.

It is therefore important that any changes to ORs are updated on the occurrence as soon as practicable so that the property review flag goes to the correct OR to avoid receiving this task in error.

When an investigation is reallocated and/or a new officer/staff becomes responsible for property it is the responsibility of the previous OR to notify Property Staff who will change details to the new “Officer Responsible” on NICHE.

Any change to the OR must be communicated to property staff who have the appropriate access to update NICHE with the new OR. IOs can be updated by Officers and Supervisors.

When a Case File has a final outcome on all involved offences, and Property is connected to the Case File with a location, or connected to an associated Occurrence of the Case File, an automated task will be sent to the Case File Investigating Officer to inform them of the requirement to review the property and make a decision around retention/disposal. The IO will workflow their Supervisor with an update who will then workflow Property staff.

If an officer believes they are not the OR/IO for an investigation but they are receiving Victim Update tasks in error, do not ignore these. Ensure that the OR/IO has been correctly reassigned.

When a property review task is received the OR/IO will fully complete a “Property” OEL entry. The OR/IO will advise what is to happen to all the outstanding property items relevant to that occurrence and workflow to their Supervisor (see Appendix B).

They will include:

1. That they are the OR/IO - the Police identification mark of each item, the Property Review option for that item and any additional information required including a Disposal Order or other authority for disposal obtained.
2. Where retention is still required, a full reason will be provided together with a

suggested further review date. An Inspectors authority is also required to be pasted into the OEL log or otherwise recorded on NICHE if the volume crime criteria is met.

It is the responsibility of Supervisors to monitor their officer’s outstanding tasks and initiate any appropriate action. Poor property management may be the subject of IPR comment including any poor task monitoring by supervisors.

The Supervisor will review the OR/IO response. If any information is missing this can be requested by returning the work flow. Post forensic analysis it is important that consideration is given to reasons for continued retention. The Supervisor will then workflow a finalised response by selecting the appropriate Property Management unit ensuring all relevant information is included or, alternatively, the Property Review can be re-assigned if relevant.

The OR/IO will organise any returns to owners/finders in consultation with Property staff who will also reset a new property review flag date if any property is still to be retained.

Property Managers should ensure that opportunities for District community

engagement or District income generation do not go to waste as a result of property disposals.

The Department/District Services Support Manager will ultimately decide the best method of “Dispose (other)” in conjunction with the Property Manager.

Volume Crime (VC) Occurrences where Property has been retained for One Year

Where no suspect has been identified in a volume crime occurrence there is a presumption for disposal of any property after one year unless good reason can be shown.

An Inspector must provide written approval to retain volume crime property beyond one year where no suspect has been identified. (see Section 9). At the 11 month review the OR and supervisor will have four weeks within which they must inform the Property officer of the reason for retention (and paste the Inspectors written approval in the OEL in appropriate cases for Volume Crime) or provide authority for disposal. Failure to respond or show good reason for continued retention will result in escalation to LPMC level.

There will be monthly, six week in arrears, reports generated to the LPMC showing:

- All outstanding property linked to closed occurrences not disposed of.
- All outstanding property linked to open occurrences that are older than 12 months with no active property review flag.

6. Property Retention and Timescales

All evidence-related property will be disposed of when there is no further practical or legal requirement for its retention.

All evidence-related property (including that connected with a serious or organised crime offence) will be subject to property review by the OR/IO after being retained for 11 months.

It is important to conduct periodic reviews of retained property and particularly at significant junctures in the process– once all suspects have been identified and interviewed; after charge, once the case has been submitted to PPS, once the PPS decision has been issued.

Notice must be taken of Section 5 of the Codes of Practice to the Criminal Procedures and Investigations Act (CPIA) 1996, and any relevant PSNI directives.

Under the CPIA 1996 all material that may be relevant to the investigation must be retained until a decision is taken whether to institute proceedings against a person for an offence

It should be noted that CPIA Codes of Practice are secondary to retention criteria under Article 24 of PACE. The CPIA Code of Practice at Section 5.2 acknowledges the superiority of Article 24 PACE

“The duty to retain under this code [material seized under Article 21 of the Police and Criminal Evidence (NI) Order 1989] is subject to the provisions on the retention of seized material in Article 24 of that Order”; and under Article 24(4), nothing can be retained for use at trial or investigation, where a photograph will suffice.

In essence if something is to be retained in the original format, it must be necessary to retain the original for use as evidence at a trial or for forensic examination or for investigation in connection with an offence. The officer should address their mind to the reason why they are retaining the item instead of taking a photograph or otherwise recording the item. In cases of doubt guidance should be sought from Legal Services and/or the Public Prosecution

Service for clarity on what may be needed for investigation or use at trial.

If a criminal investigation results in proceedings being instituted, all material which may be relevant must be retained at least until the prosecutor decides not to proceed with the case, or the accused is acquitted or convicted.

A Court Forfeiture Order, or similar, takes priority over the Criminal Procedure and Investigations Act 1996 requirement for material to be retained by the police. All applications for Forfeiture Orders require to be processed in good time via the Public Prosecution Service. Every opportunity to remind the PPS of the requirement for a Forfeiture Order should be taken, from inclusion in the outline of case to regular communication as the case progresses through the courts. This is to ensure clarity if there is an early plea or court locations change.

Where a Forfeiture Order has been issued by a Court, it will be the responsibility of the person receiving it to have a copy scanned onto the ‘Reports’ tab on NICHE (or submitted via HOLMES). The OR/IO will have the original Order retained within the relevant copy prosecution file, to be retained for 2 years or the length of any sentence, whichever is the longer

In Serious crime cases, in addition to normal periodic reviews, where property has been retained for 30 years there should be a formalised 'Review' of the necessity to further retain. Part of the 'Review' should consider whether the case

has been reviewed by HET, Legacy Investigation Branch or SCRT or has been subject to a fresh investigation by C2. Any decision to dispose should be supported by a written rationale.

CPIA Considerations – Summary of main points

If there is <u>no</u> suspect	<p>until all reasonable lines of enquiry have been exhausted</p> <ul style="list-style-type: none"> ○ review of property after one year in all volume crime cases <p>Over and above normal periodic reviews a Formalised "Review" of retained material after 30 years in all Serious and Organised crime cases where property is still retained.</p>
If a person is charged or reported	at least until conviction or acquittal or the case is withdrawn by PPS
Upon conviction	at least until 6 months after conviction. This is also dependent on the offence and whether or not there may be future appeals/public enquiries
If the suspect is imprisoned (Sentence of 6 months or more)	at least until 6 months after the sentence of imprisonment ends. This is also dependant on the offence e.g. murder, sexual assaults etc. and whether or not there may be future appeals/public enquiries.
If there is an appeal	<p>at least until the appeal has concluded</p> <p>This is also dependant on the offence e.g. murder, sexual assaults etc. and whether or not there may be future appeals/public enquiries</p>
If there is likely to be a complaint/complaint made (e.g. where PPS have made a no prosecution decision	Until any complaint either to PONI or PSD is concluded/resolved

Decisions can be relatively straight forward in detected cases but not so in undetected cases. During periodic reviews of property held, particularly for undetected Serious Crime occurrences, the OR/IO dealing must consider the facts and current position of each property item still held. They must determine what reasons, if any, exist for it still to be deemed relevant and necessary to retain. It is important to give consideration to the potential impact of any disposal decisions.

Where it is established that property is no longer relevant to retain, having been eliminated from the investigation as a result of subsequent enquiries/findings made since the time of seizure then it should be disposed of. The outcome of all such decisions made must be recorded for future reference and included with other facts held on the occurrence.

The officer in charge must ensure that Property Stores holding evidence- related property are notified when the case for which they are being retained is either concluded or discontinued. At this point the officer in charge will ensure that Property staff are provided with details as to any disposals or further required retention periods.

Transfer to the Serious Crime Exhibit Store (SCES)

The option to transfer serious crime related property of the offence categories outlined within Serious Crime Exhibits to the SCES, exists from one year and a day from the date of incident. A property review will take place, in all cases, prior to arrangements being made for transfer of items to the SCES. This includes any evidence- related property held within a designated armoury for which the District/Department Property Manager has responsibility. The OR/IO must review each item of property as to its continued retention or disposal. They **MUST** consider which items remain "relevant" to the investigation, prior to notifying Property staff to have such property transferred to the SCES.

Forms SCE 2 (firearms and explosive residue), 3 (general exhibits) and 5 (certificate for collection and delivery) which are available on Policenet must be completed and e-mailed to Seapark for submission of serious crime property to the SCES. These must be authorised by a Chief Inspector for murder cases and an Inspector in all other cases. Submission forms must detail the date the review took place, Officer involved in the review and the reason for retention must be clearly stated together with the date when the next

review is to be carried out. This information will be logged on NICHE for progression. All delivery to/collection of Serious Crime evidence- related property from the SCES will be notified and agreed beforehand with the SCES Manager.

Found Property: is covered under separate Guidance.

Sudden Death Property

Medication recovered from a reported death must be retained, whether as for evidence- related or safe-keeping until at least the conclusion of any inquest proceedings. Only when it is concluded that no crime is suspected should authority for disposal be sought by the officer responsible for dealing with the matter.

7. Property Disposal

The IO should always request a Disposal Order in the 'outline of case' if appropriate.

Property should be retained for as short a time as possible and only where legal or meaningful reasons require.

Methods of Disposal provides a summary regarding Property Disposal and the authorities required.

When Property staff deliver an item for return to the owner or other person so entitled, they will make a "Property" OEL entry stating the officer/staff the item is being delivered to and details of the transit store (if applicable). Property staff will set the NICHE status to disposed of to this person and send them a separate e-mail with any transit locker number and code, informing them they have 7 days to pick up the item.

All property returned to its owner or other person so entitled will be returned against receipt and a disclaimer or indemnity may also be completed, where appropriate. The person obtaining the receipt will be responsible for having it scanned onto the "Reports" tab on NICHE where it is not obtained via signature in a police notebook (unless they are utilising FEO processes). A full "Property" OEL entry will always be completed prior to termination of duty stating the identification numbers of the items returned, date, time, location and to whom. In the case of HOLMES a receipt is generated from HOLMES which is signed by the person or their agent. A copy of the receipt is submitted through appropriate HOLMES channels for inclusion on the incident. The Property record for the item is then updated to reflect the item has been returned to the owner.

A notebook entry will always be made by an officer returning property to its owner or other person so entitled. Where, for whatever reason, the property is not returned to the owner/other person within 30 days of being disposed of to them, it is the responsibility of the person in possession of the property to workflow their supervisor with an explanation. The Supervisor will provide a recommendation for further action to the Property Inspector via "Property" OEL who will respond via "Property" OEL of action to be taken. NICHE will be updated with all further actions until the property is returned or otherwise disposed of.

In certain instances depending upon the nature of the property (bio-hazard, chemically treated etc.) advice may also need to be provided on Health and Safety issues/other concerns with regard to the returned property. Appropriate advice should be sought beforehand by the IO in such cases and a full "Property" OEL entry made where such property is returned.

Once the OR/IO has declared that an item is suitable for disposal and provided the appropriate authority, but (for whatever reason) property is not to be returned to its owner/finder the Property Manager will ensure the appropriate authority has been *pasted* into the OEL or scanned onto the

NICHE Report tab, where relevant, before liaising with the Department/District Services Support Manager who will decide the most appropriate form of disposal.

No property, irrespective of its monetary value, will be removed from PSNI premises for personal use.

Legislative Authority for Disposal of Property

Where police are aware there is a dispute over ownership of evidence-related property – no matter how valid the claim may seem to the officer – the dispute should be subject to court proceedings to determine disposal. Advice should be sought from Legal Services Branch.

Section 31 of the Police (Northern Ireland) Act 1998, refers to any property which has come into the possession of the police in connection with their investigation of a suspected offence. It provides for the disposal of property to the person who appears to the court to be the owner. It is more readily used by potential owners making claims against police for the return of their property. In such cases police should establish whether or not retention is necessary (see [Section 5](#)). If any officer becomes aware of a Section 31 application for the return of property they should seek assistance from Legal Services Branch.

The case law in relation to Section 31 (the English equivalent) has established a test which favours possessory title and confirms police can only interfere with possession of property when they have statutory authority to do so. PSNI statutory authority to retain property derives from Article 24 of PACE:-

- express provision of Article 24(2)(a) and the interference with the applicant's rights to peaceful enjoyment of property is lawful, necessary in a democratic society and proportionate to the legitimate aim of detecting and prosecuting crime;
- express provision of Article 24(2)(b) necessary to establish the owner when there are reasonable grounds to suspect the property has been obtained in the consequence of a criminal offence; and
- general provision of Article 24(1), "necessary in all the circumstances" but these circumstances are limited to purposes for which the item was seized under Article 21 – (see [Section 3](#)).

The case law test goes on to set out that once the police statutory power to retain the property has expired, the property should be returned to the person from whom it was seized unless there is a

reasonable prospect of identifying a person holding better title.

The relevant cases providing the current test are:

- *Webb v CC of Merseyside Police; Porter v CC of Merseyside Police* [2000] 1 All ER 209
- *Costello v CC of Derbyshire Police* [2001] 3 All ER 150.

Placing the law into a practical context, Section 31 of the Police (Northern Ireland) Act 1998 provides the court with the following powers to:

- make an order for the delivery of the property to the person appearing to the court to be the owner of the property; or
- where the owner cannot be ascertained, make such order with respect to the property as the court thinks fit.

In the context of these provisions "ownership" is taken for its basic meaning and is tantamount to possession; in other words, it does not require legal ownership. The test in case law is, as follows:-

- The person from whom the property was seized has possessory title;
- Police can interfere with this possessory title and retain property so long as there is a statutory ground to retain (the express grounds under PACE Article 24 are for investigation/use at trial or to *determine* the lawful owner when the

property has been obtained as a result of the commission of a criminal offence);

- Once the police statutory grounds for retention are exhausted, the property must be returned to the person from whom it was seized unless –
 - it is inherently unlawful to possess the property (e.g. drugs, indecent images of children); or
 - there is a prospect of identifying someone with better title than the possessory title.

This test can have somewhat unexpected results in that property is returned to suspects when it was derived by unlawful means, but the property is not inherently unlawful to possess and there is no prospect of identifying a party with better title - examples from case law are a suspected stolen vehicle with no prospect of identifying the true owner(s) or cash from the sale of liquor without a licence. There is an instinct to consider the money should be recoverable because it is connected to criminal offending, however, the case law ranks possessory title as paramount unless there is a real prospect of identifying the true owner(s) of the property.

There is an indication in the case law that a public policy element could factor and the court could exercise discretion not to return property to the person with possessory title

when it would go against public policy. This concept has not been fully explored by the courts and the general view among the cases is that if the police are to have more power to dispose of property, it is for Parliament to provide powers by statute, not for the courts to create powers in their decisions.

Police can bring applications under Section 31 to dispose of property to have the court stand over the return of the property - usually to someone other than the person from whom it was seized.

This is only where the facts surrounding the property are simple (e.g. original owner and theft/burglary, but the property seized from the suspect was not dealt with in the criminal case; cash connected to drugs or other criminal enterprise - amount falling below the POCA threshold; aiming to dispose of property on the basis that to return it would assist the person in committing an offence, e.g. weapons/counterfeit goods; an owner is known but cannot be located or has relinquished their rights and the property should go to charity or be used for police purposes but the District Commander is not prepared to authorise under the Police (Property) Regulations 1997).

In the majority of cases, notice will be served on the person from whom the property was seized and the case law is in favour of the person who had possession immediately before the police seized it unless there is a prospect of identifying a person with better title. This means in the cases where police want to dispose of something because it was obtained by ill-means, but there is no better title held by anyone else, the only way the application is likely to succeed is if the possessor does not appear or does not contest the application.

Evidence related property, subject to a Section 31 (of Police (NI) Act 1998) Order for delivery to a named person appearing to be the owner or some other form of disposal (sold and proceeds to charity or destroyed): to be kept for 14 days to allow for any appeals. If no appeal forthcoming, check with LSB and comply with Court Order.

ORDER 17 of Rules of the Court of Judicature – Interpleader Proceedings

Where there is a complicated dispute or background to the property and issues of possession versus better title, involving two or more parties, and the parties cannot reach an agreement or court result through separate civil proceedings, police can issue

Interpleader proceedings under Order 17 in the High Court, to force the parties to litigate and determine ownership.

Examples of cases requiring Interpleader proceedings include, vehicles reported stolen, later bought in good faith (and there may be an insurance company who has paid out); vehicles sold using fraudulent means; or property where ownership is shared among two or more people.

Officers should seek advice from Legal Services Branch to ascertain if there is any prospect of disposal of property through the court under Section 31 or the issue of Interpleader proceedings. When contacting Legal Services, officers should be in a position to inform on the following considerations:-

- Are there two or more claimants?
- If there is only one claimant, is there any prospect of identifying the true owner?
- Is there no known claimant (unclaimed property) or the only claimant has signed a disclaimer to relinquish their interest in the property?

Unclaimed Property: The Police (Property) Regulations (NI) 1997

This refers to unclaimed property which has come into the possession of the police in connection with their investigation of a suspected offence. The Regulations relate to the sale and disposal of property in the possession of the police to which Section

31 of the Police (Northern Ireland) Act 1998 applies, and make corresponding provision for property in the hands of the police by virtue of Article 11 of the Criminal Justice (Northern Ireland) Order 1994. The Regulations also make new provision for the retention of property by the police in certain circumstances.

The Police (Property) Regulations (NI) 1997 apply when certain criteria are met. The three starting criteria for disposal of any property under the 1997 Regulations are:

- no court order in relation to the property;
- no known owner; and
- property has been held with police for one year.

No Known Owner

The word “owner” in the context of law relating to property and police dealings with property is to be given its ordinary meaning. It normally means the person who bought the property or was gifted the property; if that level of ownership cannot be determined, then the owner would be seen as the person who has control over the property, whether or not they have it in their possession.

If an owner is identified or comes forward, but they do not wish to assert their ownership or are unable to produce proof of ownership, police should require the person to formally relinquish their ownership by way of a witnessed police statement.

The option to dispose under the 1997 Regulations is a power delegated down from the Chief Constable to the District Commander/HOB. It is only available if police are in a position to indicate either (a) the owner of the property is not known despite exhaustive police attempts to discover an owner or (b) the owner has formally and on police record relinquished their rights of ownership.

If there is any doubt over identifying ownership/proof of ownership/relinquishing of rights of ownership, the officer in charge should seek further advice from Legal Services Branch.

Property held for one year

Within the 1997 Regulations and their parent statute (The Police (NI) Act 1998), there are express exceptions to this third criterion. In essence, the Chief Constable can direct that property is destroyed or otherwise disposed when the Chief Constable is satisfied it is not in the public interest for the property to be sold or

retained for police purpose; and this decision can be made ahead of the one year time threshold, indeed at any time, if the property is perishable or custody of the property would involve unreasonable expense or inconvenience.

This provision is reached through **Regulation 8**. The Regulation 8 is subject to Regulation 4(2) – stating that property must be held for one year; however, Regulation 4(2) is tempered by section 31(8) of the 1998 Act, which provides for avoidance of the one-year time threshold for sale of property inconveniently or unreasonably expensively held. Reversion to Regulation 8, where the Chief Constable can direct disposal other than sale, allows for early destruction of property which it is not in the public interest to sell.

This means property which would not garner a profit at sale can be destroyed. Property that would produce a profit on sale should be sold and, under section 31(8) of the 1998 Act, the proceeds of sale must be held in possession of police for one year; any person later asserting ownership of the property can make a claim on the profits.

When applying under the 1997 Regulations for an order of disposal or destruction of

property, the property in question will remain retained within the Property Store. Where the owner of money has not been ascertained or the court declines to make an order returning it to a claimant the money will not be disposed of until a period of 12 months has elapsed from its coming into the possession of the police, or the termination of any proceedings - whichever period is the greater. A full report of the circumstances of its possession will be submitted via the local District Commander to the Assistant Chief Constable together with documents supporting any costs incurred under the provisions of the 1998 Police (NI) Act pending any hearing at the magistrates' court; and for a further 6 months after any Order granted, to allow sufficient time for any appeal to be lodged pursuant to the Act. Any letters requesting property be returned to the owner must be forwarded to the responsible or investigating officer dealing with the property concerned.

The proceeds of all sales under the 1997 Regulations and any money to which this legislation applies shall be lodged to the credit of the Policing Board and, subject to any direction under section 29(1) of the Police Act (Northern Ireland) 1970 (the 1970 Act), shall be kept in a separate account called the Police Property Fund for a period of 12 months. Further advice in

relation to action under the 1997 Regulations can be obtained from PSNI Legal Services.

Formal authority to dispose of the property must be received at District Commander/HoB or nominated deputy level before undertaking disposal or destruction, to prevent the PSNI being left open to civil claims in respect of conversion and trespass to property, (see Appendix B)

Where any property items of value are to be disposed of, other than by return to owner, a District Services Support Manager will consider the appropriate method in consultation with the Property Manager.

Where the value of the property is over £3,000 the approval of the Policing Board will be sought for the proposed disposal method prior to the disposal being affected. Regulation 6 makes provision for the Police Property Fund. The fund comprises unclaimed receipts arising from criminal investigations, which the Policing Board can donate to charities.

Less valuable Items - Destruction or disposal of property – Regulation 8

If the chief constable is satisfied that the nature of any property to which these regulations apply is such that it is not in the public interest that it should be sold or retained, it shall, subject to regulation 4(2) or 5(2), as applicable, be destroyed or

other disposed of in accordance with his directions.

PSNI would have to ask the court for the items to be forfeited if they are no longer needed under Article 24 PACE or the items may be used in crime. There should be some oversight of the return process in these circumstances.

According to case law in Chief Constable of Merseyside Police –v- Owens [2012] EWHC, the court can decline to return property other than to the owner if this would indirectly assist in or encourage crime.

Police may only donate property directly to charity, rather than through the Police Property Fund if it is not viable to sell it as per Regulation 8 above. An indemnity form and undertakings regarding the property donated may be appropriate.

Forfeiture Orders

A Court Forfeiture Order, or similar, takes priority over the Criminal Procedure and Investigations Act 1996 requirement for material to be retained by the police. All applications for forfeiture orders are required to be processed in good time via the Public Prosecution Service. Every opportunity to remind the PPS of the requirement for a Forfeiture Order, from

inclusion in the outline of case to regular communication as the case progresses through the courts. There may be a plea or change of court location, which may cause confusion.

The responsible /investigating officer will promptly notify Property staff via workflow of any property held within storage subject to disposal by way of forfeiture or other similar Order, once the opportunity for any appeal has passed. Where in possession of a Forfeiture Order, issued at court, the person receiving it will be responsible for ensuring a copy is scanned onto the “Reports” tab on NICHE. Property staff will not dispose of property subject to a Court Order until it has been scanned onto NICHE. The OR/IO will have the original Order retained within the relevant copy prosecution file, to be retained for 2 years or the length of any sentence, whichever is the longer. They will liaise with the BSM and Property staff regarding disposal, ensuring records are updated on NICHE/HOLMES.

The Criminal Justice (NI) Order 1994,

Article 11, provides a power of forfeiture for property used in an offence once a conviction is in place.

- It empowers *the court* to make a deprivation order; it does not empower police.

- There is no power of seizure or retention under Article 11.
- The orders under Article 11 are deprivation orders; they are against the defendant, as opposed to attaching simply to the property.
- After conviction, the decision to forfeit rests only with the court and the court MUST have regard to the value of the property and the “likely financial and other effects on the offender of the making of the order” – Article 11(2) – for example, if the Judge has sentenced the offender to significant custody or compensation orders, it may decide to refrain from additional financial punishment through depriving the defendant of the vehicle.
- An order under Article 11 is only appropriate where it does not constitute too severe a punishment in the circumstances – considerations of the court will include whether the property is of value, monetary or otherwise, to the defendant e.g. deprivation orders were quashed when the defendant’s vehicle was needed for work or medical needs: *Richards* (1992) 13 Cr App R (s) 272; *Tavernor* [1976] RTR 242.
- Orders under Article 11 are appropriate only in simple cases, where ownership

is not shared or in dispute: *Troth* (1980)
71 Cr App R 1

- If there is only a tenuous link of the property to the offence (e.g. using a vehicle to get to a crime scene) or there is someone other than the offender with interest in the property, the prospects of a successful application are lessened.
- Article 11 orders can be made even in respect of property that is not in the possession of police – Art. 11(6).

It is a principle of common law that a person's property should not be destroyed or confiscated without them being given an opportunity of being heard: it may be sufficient that the offence charged carries a power of destruction or confiscation and the defendant was represented at the hearing: *Cullen v Dale* [1944] 78, at 86-87 (CA).

An order to deprive the offenders of property used, or intended for use, for the purposes of crime under Art.11 of the Criminal Justice (NI) Order 1994 can be made, for example, in respect of items seized from brothels: *Rong Chen, Dempsey and Hinton* [2012] NICC 26 [2012] 9 BNIL 66 (Stephens J).
Evidential Property – subject to an Order under Article 11 Criminal Justice (NI) Order

1994 – keep for 6 months after the order is made to allow for a claim from another person with interest or appeal by the defendant against sentencing: –

- If appeal or claim successful to overturn Article 11 Order then review retention;
- If no claim or appeal: dispose after the six months has passed;
- Always wait until the claim or appeal has been concluded;

The Proceeds of Crime (Northern Ireland) Order 1996, Proceeds of Crime Act 2002 (as amended) and **The**

Terrorism Act 2000 allow for the application of forfeiture orders for property used or intended for use for purposes of crime. This includes making applications for continued detention of seized cash beyond the value of £1,000 following the initial detention within 48 hours. Assistance with such applications can be obtained from both the Organised Crime Branch & Legal Services Branch.

Section 27 of Misuse of Drugs Act 1971

The most appropriate time to make an application to have money forfeited will be through the PPS at the sentencing stage following any conviction however there is a high test to satisfy before the court will forfeit cash.

The application for forfeiture of property related to drugs offences, before either the Crown or the Magistrates' Court, is made under section 27 of Misuse of Drugs Act 1971 (where the cash is under £1,000 or for some other reason cannot be seized under POCA). In respect of cash or other property suspected to be associated with the sale/purchase of drugs, the test in case law to dispose of cash relating to drugs offences arises in the Northern Ireland Court of Appeal case of *R v Fenton* [2000] NICA 27.

What this means for any case is that the prospects of a disposal are poor unless:-

- There is an admission by the defendant that the cash related only to the supply of drugs; or
- There is other evidence that the money would be used for the purchase of more drugs; or
- The defendant has taken the position that he would not wish the return of the cash and would not contest an application.

It goes without saying that if the charge of "intent to supply" is withdrawn and reduced to simple possession, the prospects are reduced.

Post-conviction, a stand-alone application can be made under Section 27 (or indeed under Article 11 of Criminal Justice (NI) Order 1994), but the same caveat of the high threshold would apply, together with the possibility the court would deem the punishment of the offender has passed in totality at the sentencing stage and any further deprivation of property would be viewed as an additional penalty.

There is an instinct to consider the money should be recoverable because it is connected to criminal offending, however, the case law ranks possessory title as paramount unless there is a real prospect of identifying the true owner(s) of the property.

An application under Section 31 of Police (NI) Act 1998 is not helpful in this situation; since the defendant is the owner of the cash.

Firearms (NI) Order 2004

When convicting someone of an offence under this Order and subjecting them to certain sentences, the court has discretion to make an order as to the forfeiture or disposal of any firearm or ammunition found in his possession and to cancel any firearm certificate held by the person convicted. Orders of this kind should be requested through the PPS. Article 72(4) provides for the Chief Constable to order

the destruction or other disposal of any firearm or ammunition which is surrendered to, or seized or found by, any constable and in respect of which a firearm certificate has not been granted, without the need for a conviction.

There is also provision under Article 72(5) for the Chief Constable to apply to the Magistrates' Court to order the forfeiture and disposal of firearms and ammunition, without the need for a conviction. This would be relevant where there is a certificate in place.

Property from a deceased with no known next of kin or will

Information on the investigation procedures relating to Sudden Death are contained in the relevant Service Instruction, Police Investigations into Unexpected, Unexplained or Suspicious Deaths and Human Tissue Retention. An order of priority of next of kin is referred to.

All efforts must be made to establish the deceased's legal next of kin and where there do not appear to be any, then near relatives, where property has been retained by police. Issues could arise if the legal next of kin is not notified of the death and as a consequence have not the opportunity to either arrange or attend the deceased's funeral. If true ownership of valuables

retained by police is not established prior to return to family members then this has the potential to result in civil litigation. In any cases of doubt Legal Services should be consulted and where no next of kin can be identified the Crown Solicitor's Office, RCJ, Belfast, should be contacted who deal with such cases – classified as "Bona Vacantia".

Court Disposal Applications.

The Officer Responsible/Investigating Officer should always request a Disposal Order in the 'Structured Outline of Case' if appropriate.

Where no owner has been identified and there is no Court Order it should be possible to dispose of property under the Police (Property) Regulations (NI) 1997 with the District Commander's/HoB or nominated deputy's authority.

Applications made subsequently to the Magistrates Court for disposal of property will be made by Court Presentations, LSB, Brooklyn. Before submitting any file, officers should contact Legal Services by email seeking advice on the disposal of property. Include a brief outline of the property concerned, the background of seizure and the reason for disposal. Telephone or email advice will determine the merits of submitting a full file for application to the court.

A file containing the following is required to enable Court Presentations to bring the matter before the court.

- A full report outlining all the facts surrounding the property coming into the possession of police. This report should detail what investigations have been made, if any, as to any person that may have a propriety interest in the property.
- Statement of evidence from the officer(s) concerned outlining exactly when, where, how the property was found.
- The full postal details of any person who may have a proprietary interest in the property.

Files should ideally be submitted electronically by email with scanned attachments/Word doc. statements.

On receipt of the initial papers, further enquiries or evidence may be directed by Legal Services Branch. The prosecutor making the application, having received the required information, will complete, lodge and present the application at court.

Approved Methods of Disposal

- Return to owner/finder
- Destruction (including Special waste in line with Regulatory requirements)
- Sale for scrap value

- Perishable or involves unreasonable storage expense
- Charitable donation
- Required for Police Purposes
- Auction
- Sale by Tender

Destruction

A crusher is now available at Seapark. This can be used for among other things, glass, metal, plastics, audio tapes, DVD's, cannabis grinders, computers and mobiles. The disposing District/Branch currently must supply the staff who need to be trained in the use of the crusher and also to drive a forklift truck. Further information can be obtained from the Premises Officer at Seapark. Methods of Disposal provides further detail in relation to the approved methods of disposal. It also provides a summary Property Disposal table and authorities required.

8. General Issues

Property Store Cleaning

This applies to property collection vehicles, District/Department transit and all main Property Stores. Regular cleaning of areas and surfaces used to hold property and liable to transfer of contaminates by human action is an important matter to help limit or

prevent the spread of contamination. The LPMC will be responsible for putting in place a cleaning schedule. Records should be retained of cleaning regimes and will be examined as part of the Property Inspectors role.

Religious/Cultural Items

Anyone coming into the possession of any religious or cultural items must treat them with appropriate respect and if necessary seek advice regarding the handling, packaging, storage and disposal of these items. This will include holy books such as The Bible or Qur'an, religious clothing or artefacts and items such as a Grand Orange Order sash. Consider that images of the Qu'ran or extracts from it must also be treated with dignity. When dealing with any religious book or artefact, handle with respect by wearing gloves; avoid placing them on the floor or putting other items on top of them. Ensure to keep them separate from items which may be offensive to that religion or culture.

Be aware that on occasion banners and flags will be seized as evidence, care should be taken that these should not be prominently on display in the Property Store, consider turning posters and slogans around so that they are not causing offence to staff managing property. Sentimental items seized such as wedding rings should

be treated with dignity. On occasions where items to assist with a disability are seized, e.g. hearing aids, crutches or glasses – care should be taken to ensure the owner has alternative means to replace them, or is put in contact with an appropriate person.

Health and Safety

District Commanders via the LPMC in conjunction with local Health and Safety Risk Assessors will ensure there are suitable and sufficient Risk Assessments relating to activities within their Property Stores. Advice and guidance can be sought from Health and Safety Branch and also Estate Services Business Unit; this will demonstrate compliance with current Health and Safety legislation and provide the basis for managers to prioritise actions in order to manage potential employer liability risks, whilst ensuring the security and integrity of the property.

It is the responsibility of each Property Manager to ensure day-to-day compliance with the relevant Health & Safety guidelines. They are also responsible (if necessary with the assistance of the local Health & Safety Risk Assessor) for ensuring Health & Safety Audits are conducted on a regular basis.

Property Managers are also responsible for ensuring appropriate first aid materials and protective equipment are available for use within the environs of their Property Stores. Advice on Generic Risk Assessments for Property Stores can be found on Policenet on the Health and Safety pages.

Animals

The Welfare of Animals Act (NI) 2011 is divided amongst three organisations;

Councils Responsibility

District Councils are responsible for enforcement of the Welfare of Animals (NI) Act 2011, as they apply to “non-farmed animals”. This means domestic pets of any vertebrate species such as cats, dogs, horses etc. Animal Welfare officers can use statutory powers to take a range of actions to improve the welfare of non-farmed animals including giving advice, issuing improvement notices, taking animals into their possession and prosecution. Councils do not offer a rehoming service for unwanted animals.

DAERA Responsibility

Welfare complaints about farmed animals (animals bred or kept for the production of food, wool or skin or other farming purposes) should be referred to the Department of Agriculture, Environment and Rural Affairs. Local divisional

Veterinary Officers details can be found on Animals & Wildlife Service Instruction. Police may exercise their powers in the unlikely event councils inspectors are unavailable.

PSNI Responsibility

PSNI still lead in the investigation of more serious organised crime involving animal cruelty such as animal fighting (examples include badger baiting and dog fighting). PSNI also have responsibilities for wild animals e.g. deer poaching, persecution of birds of prey, release into the wild of non-native species, trade in endangered species within NI etc. PSNI are also responsible for animals wandering on roads under the Animals (NI) Order 1976.

Lost and Found Property

Lost and Found property is subject to separate instructions.

Discipline Matters

Managed Services Staff – “The Protocol – Discipline Matters – Resource N.I. Ltd Staff Members Including The Consideration of Suspension Of”, has been produced to standardise the approach to dealing with Managed Services staff who come to adverse attention which requires the initiation of a Disciplinary investigation and consideration of Suspension. The most up

to date version is available from Discipline Branch.

9. Volume Crime Property

Volume Crime (VC) items account for approximately 70% of all property seized by police in the investigation of potential offences.

Present practice has resulted in too many volume crime items being seized and too few being disposed of.

This Service Instruction introduces a presumption to dispose of Volume Crime items one year from the date the volume crime item was entered onto NICHE where no suspect has been identified. Volume crime exhibits will not be part of a Serious Crime investigation.

Volume Crime comprises crime categories of a statistically high importance and for which:

- Targets for reduction have been set within the organisational policing plan, or
- Through assessment, are determined to be of local community safety importance

Examples of volume crime will include:

- Theft
- Burglary
- Criminal damage.

- Theft of and from vehicles.
- Offences against the person such as assault and AOABH (excluding wounding with intent).
- Any other crime category so designated by a District.

It should be noted that:

- Property can be photographed and returned to the owner (or disposed of) if that is reasonable in all the circumstances.
- Forensic submission is expensive – the majority of volume crime exhibits will not be sent for forensic analysis. (See VC submission criteria, below).
- Property should only be retained until all lines of enquiry are exhausted, lines of enquiry comprise of – named suspect, witnesses, identification evidence, forensic intelligence/evidence, identifiable property, intelligence information, part of a hotspot or crime series.

Where suspects have not been identified or where they have not subsequently been made amenable volume crime items should be disposed of.

The Volume Crime Forensic Submission

This criterion dictates how many seized items will be examined per case.

This criteria must be considered by the investigating officer when deciding whether a volume crime item should be seized. Blindly seizing and retaining property are indicators of poor performance and may also be contrary to the Victims Charter and other legislation. Strong, well-informed decisions not to seize property or to dispose of it appropriately are more likely to be supported – even if the decision turns out to be wrong in the longer term

Volume Crime Forensic Submission

Criteria for cases of car crime, criminal damage, theft, burglary and minor assaults:-

PSNI Fingerprint Bureau currently restricts the number of items, for each case, for chemical examination to three (3), e.g. three pieces of paper from a burglary. Although from the same burglary they will take all fingerprint lifts presented (fingerprints found by CSI and lifted onto card for recovery).

PSNI Forensic Authorisations Unit, FAU, guidelines are that the number of DNA source items will be initially limited to one per volume crime case (e.g. 1 x cigarette butt, 1 x swabs from the neck of a bottle

etc.). If the IO makes a case that more than one person was involved in the case due to CCTV or witness testimony then the Forensic Case Manager will consider allowing more than one item. The decision on which item is best should be based on recovery location (e.g. blood inside a house is evidentially more compelling than blood outside the house – although CSI should recover all available evidence or sample a suitable number to enable identification and interpretation if relevant).

The number of exhibits recovered by CSI will depend on what they find. CSI will inform the IO of the results via NICHE and include their scene notes.

The IO must make the decisions on what to submit based on all available information and evidence– except for fingerprint lifts where the CSI arranges submission.

Advice on what should be submitted can be obtained by contacting the Service Forensic Case Manager, particularly if the IO wishes to submit more than one volume crime item.

In volume crime cases forensic submission should be made to the Forensic Authorisations Unit, FAU, as quickly as possible – ideally within 10 days.

If the initial forensic submission does not yield the evidence required to support prosecution further submissions can be considered by contacting the Forensic Case Manager.

After one year from the date the volume crime item was booked onto NICHE the presumption will be disposal where there is no suspect identified. To continue retaining such items good reason must be demonstrated and be accompanied by the written approval of an Inspector which must be pasted into the OEL or otherwise recorded on NICHE.

The OR will receive a task to review any outstanding volume crime property after 11 months. This task should be actioned promptly when received.

10. Firearms, Ammunition, Explosives, Pyrotechnics

General Safety Rules:

- Firearms should never be pointed at anyone.
- Any firearm, suspected explosive device, ordnance or pyrotechnics must not be handled unless absolutely necessary.

- Refer to PSNI GRA 107 Safe Recovery of Firearms from Scenes, Searches and Incidents Involving Police and in appropriate cases firearms submitted to FSNI for examination should be accompanied by an x-ray of the firearm and it should also have a red or green sticker attached depending on whether it is loaded or unloaded.
- To comply with legislation only police officers and appropriately trained and authorised police civilian support staff will transport and control firearms, ammunition and explosives.
- Districts/Departments should agree local practices utilising FEO's, where appropriate, to assist in the management and transportation of such property.

Items dealt with by Firearms Enquiry Officer's, FEO's

Firearms and Explosives Branch, FEB, are responsible for matters covered under the Firearms NI Order 2004. Their primary responsibilities relate to legally held privately owned firearms.

There are 3 main categories under which such firearms may come into police possession namely as privately held weapons on an FAC, dealership weapons, or club firearms.

- Private holder:
- As a result of concerns regarding continued 'fitness' of holder', e.g., medical issues, etc.
- As a result of concerns regarding continued good reason.
- As a result of a risk to public safety and the peace, e.g., following a domestic dispute.
- As a result of an FAC having expired.
- Death of an FAC holder.
- Pending transfer to another FAC.
- Voluntary disposals.
- Dealer.
- Closure of business.
- Death of dealer.
- As a result of concerns regarding continued 'fitness' of dealer.
- Failure to comply with police requirements e.g. security.
- Clubs.
- Closure of club.
- Issues of illegality resulting in removal of firearms.

Removal of firearms, in the above circumstances, should also include removal of ammunition and the certificate (FAC). Ammunition should be treated in the same way as firearms in terms of storage. An M29 Form should be completed and there should be a label attached to each item containing its unique M29 number. A copy of the M29 will be given to the owner when

the item first comes into police possession. A NICHE occurrence will be created and an OEL entry containing the M29 number and relevant information will be made. PSNI do not offer safekeeping services for gun holders who, for example, are going on holiday.

Deactivated (unless prior to October 1995) and imitation firearms are not subject to certificate control under the 2004 Order. Other relevant legislation will apply such as the Violent Crime Reduction Act. Where there is doubt as to the status of any such item, it should be treated as a firearm until an expert in CIFEX or FSNI makes an assessment.

Taking Firearms/Explosives into Police Possession

When a firearm is taken into police possession the person receiving/seizing must ensure:

That it is cleared/made safe by a qualified person (in appropriate cases this should be the Ammunition Technical Officer, ATO, also referred to as Explosive Ordnance Disposal, EOD. Refer to PSNI GRA 107 Safe Recovery of Firearms from Scenes, Searches and Incidents Involving Police. If a firearm cannot be safely declared free from ammunition then it **MUST** be assumed

that it is loaded – apply DLF sticker to ensure it is clearly identified/tagged.

A receipt (M29 or other) is provided to the owner in appropriate cases.

It is correctly packaged when seized for evidence related purposes

If evidence related and not handed directly to Police Property staff it is recorded on a NICHE (or HOLMES) occurrence with an appropriate “property” OEL entry. This will be work flowed to Property staff clearly stating its location and any action required. Where solely being dealt with by FEO’s, a NICHE occurrence will still be created.

Property staff will flag relevant items for appropriate review.

The item will be kept securely in a local armoury or other appropriate secure location with an appropriate entry made on NICHE.

Its continued retention will be kept under appropriate review by the OR/IO or FEO dependant on whether it is an evidence-related item or it is to pass to another FAC holder, it is to be destroyed or returned to the owner – e.g. following an appeal to the Secretary of State.

Where it passes to another FAC holder or the owner this will be against receipt and a full OEL entry made.

PSNI must not return a certified firearm or ammunition to an owner without FEB approval (normally through the FEO).

On occasions it may be necessary to seize fireworks, explosives or pyrotechnics. Fireworks are explosives and should be treated as such.

Advice should be sought from PSNI Explosives Inspectors regarding storage in any cases of doubt.

Given that these are explosives, storage should be in compliance with MSER 2006 NI (Safety) separation distance requirements (not only for the seizure – but also bearing in mind any other explosives held on site).

ESBU are responsible for facilitating the supply of appropriate storage facilities. Firework seizures should not be confined by being stored in ammunition/deed boxes. They should be stored in their original packaging in a dry place, away from sources of heat / ignition etc. If they have been tampered with or removed from their original packaging this will increase their category and this dramatically increases the safety requirements.

Storage of fireworks at stations should only be temporary (only for as long as they are required for evidential purposes) and property staff should contact PSNI

Explosives Inspectors to organise their removal. Any seized powders (e.g. from dealer or home loaders) should also be placed in appropriate storage pending a decision to return or destroy

All seizures, storage and disposal matters must be recorded on NICHE.

The Service also sometimes receives Time Expired Pyrotechnics (TEPs) – these should be handled in much the same way as bulk firework seizures. Best practice is to advise that TEP's are returned to the supplier if this can be done legally.

Key legislation/documents include:-

- MSER 2006 NI (Safety) – by virtue of Reg. 3 (5) MSER PSNI are exempt from separation distances regarding seized fireworks although there is a duty to take all steps to prevent fire or explosion.
- The Firearms NI Order 2004, Home Office Firearms Security Handbook 2005
- ESBU / Home Office explosive store and armoury requirements
- The Explosives NI Act 1970
- Refer to PSNI GRA 107 Safe Recovery of Firearms from Scenes, Searches and

Incidents Involving Police Guidance Procedure For Disposal of Firearms, Munitions and Ancillary Equipment.

Transport and Disposal

Disposal of Illegally Held Firearms or Ammunition: An M29 will already have been completed by the FEO/Property staff when the items first came into police possession. The OR/IO/FEO should obtain a Court Order or complete a Form 30/28 which they should have signed by a Superintendent or nominated deputy. The OR/IO/FEO will also complete an M29 (a) Transit Voucher and Form 51/1 Report, including the occurrence number, outlining how the items came into the possession of police. The OR/IO/FEO will create a full "Property" OEL entry for the relevant occurrence and workflow to Property staff in appropriate cases authorising destruction.

For other firearms or ammunition an M29 will already have been completed by the FEO/Property staff when the items first came into police possession. The OR/IO/FEO should complete a Form 51/1 Report, including the occurrence number, outlining how the items came into the possession of police and an M29 (a) Transit Voucher. The OR/IO/FEO will create a full "Property" OEL entry

authorising disposal/return prior to work flowing to Property staff where relevant. The original paperwork should be left in a locker in the inwards transit store for Property staff, where relevant. If HOLMES is being utilised as the property recording system then a copy of all relevant documentation should be added to the HOLMES account.

The Guidance Procedure For Disposal of Firearms, Munitions and Ancillary Equipment will be followed.

Property staff/FEOs must ensure that NICHE/HOLMES is updated to indicate the current status of each item of firearm/ammunition, explosives. Items managed by Property staff awaiting disposal must be clearly recorded on NICHE/HOLMES as 'pending disposal'. Once disposed of, the status must be amended immediately to reflect this and records updated.

Weapons Control visit all PSNI areas on a weekly basis and, by prior arrangement, can assist with the transport of large consignments of firearms or explosives for disposal utilising their own transport.

FEOs or Property staff accompanied by police, will transport firearms, munitions and explosives to FSNI or CIFEx in appropriate cases or direct to Weapon

Control for disposal. CIFEx examine all firearms/munitions seized as a result of a find or seized as a consequence of a criminal investigation. Where weapons or ammunition are submitted to CIFEx with appropriate paperwork and they have concluded their examination such items will be submitted to Weapon Control for destruction in appropriate cases.

Appropriately trained and authorised police civilian support staff have no powers of seizure but can control and transport firearms and ammunition with the exception of firearms, ammunition and explosives seized under terrorist legislation. In these circumstances a police officer must be the exhibiting officer and from that point on Police staff can control and transport the exhibit.

Firearms and ammunition that are subject to Serious Crime investigations will be submitted to the Serious Crime Exhibit Store, SCES, after examination by FSNI. Once authorisation for their disposal has been received they will then be submitted to Weapon Control for disposal and/or destruction with the appropriate paperwork.

The disposal of any firearm, ammunition or explosives must be undertaken by Weapon Control in compliance with current procedures. In accordance with those

procedures FSNI and CIFEx will be given an opportunity to acquire firearms and ammunition prior to destruction for reference purposes. Weapon Control will provide the delivering staff with a receipted M29a. Delivering staff are responsible for updating NICHE confirming disposal and updating any property status.

Weapon Control will liaise with the EOD to arrange disposal of ammunition and explosives as deemed appropriate.

11. Drugs

Officers can only be in lawful possession of controlled drugs, as authorised by the Chief Constable under the Misuse of Drugs Act if handled in accordance with Service policies, procedures and guidelines.

Therefore all seizures should be accurately entered on NICHE/HOLMES as soon as possible and securely stored. No drugs should be retained in the possession of officers for longer than is absolutely necessary and officers should be prepared to justify any instances where this direction is not followed.

It is important to be aware of Health and Safety issues as there can be an allergic reaction to the smell or touch of certain drugs. It is therefore important that consideration is given to being suitably suited and booted in protective clothing

when handling significant quantities of drugs. Gloves should be worn when handling small quantities.

Seizure, labelling and storage within Districts

Any officer taking possession of suspected controlled substances must:

- Prior to packaging; take steps to identify the substances. (consider field test)
- Where possible, package different drugs separately
- If practicable, separate paraphernalia from the drugs prior to packaging - bearing in mind any forensic strategy. Such paraphernalia could include scales, containing tin or cannabis grinder. This will assist when the drugs are subsequently weighed for statistical purposes and also when they are disposed of by incineration. Paraphernalia such as metal, hard plastics, glass and anything other than small amounts of drugs liquids cannot be incinerated. If in doubt check with incinerator staff beforehand.
- The description of drugs on the identification label should be kept generic, such as, suspect white powder, suspect brown resinous substance or suspect green herbal material.
- Make a "Property" OEL entry quantifying for each identification number what has

been seized including what the drugs are suspected to be/description, i.e. number of plants, tablets (unless there are large numbers which may lead to error or counting may have evidential forensic implications), etc. Weights should not be included on the identification labels. Property officers will weigh the drugs.

Record all available information on the identification label and OEL, and package securely prior to submission for secure storage. The identification label will form part of disclosure.

Responsibilities of the Investigating Officer

IOs must have the following information available for inputting the property on NICHE:

Field	Example
Type of Drug	Suspect white powder, etc., record on OEL what the officer suspects the drug to be, including control class, (A, B or C)
Description /Format	Resin/Herbal/Plants/T ablets, markings, etc.

Value	<u>Not required</u> , Statistics Branch regularly receive updated values and base the value on the information provided concerning the seizure
Weight or Quantity	Record on OEL, in the manner described in previous paragraph above
Label description	Verbatim of what is on the identification label, Weights should not be included on identification labels
Seized by Officer Responsible	Officer Service number Officer Service number

Seizure, labelling and storage when drugs are discovered in Custody

Civilian Detention Officers (CDOs) under the Misuse of Drugs Regulations (Northern Ireland) 2002, section 7 (f) can convey drugs to a lawful person, who, in this case, is a Police Officer. If suspected controlled substances are discovered by a CDO while a detained person is in custody, the CDO should bring the find to the attention of the

Investigating Officer. If the investigating officer is not present when a find happens, the CDO should alert the Custody Officer to make arrangements for them to return to the custody suite to seize the substance/substances.

If the investigating officer is not available to return to the custody suite, the Custody Officer should inform CTC who will arrange for another officer to attend the custody suite to seize the substance/substances. The investigating or seizing officer should then follow the guidance in the previous paragraphs with respect to seizure, labelling, storage, and the responsibilities of the investigating officer. The CDO should complete a statement regarding the find to include the name of the officer they alerted to the find and, if they have had possession of the substance/substances, the name of the officer they conveyed it to. In all cases an entry regarding the find should be recorded on the custody record.

Responsibilities of Property Officer

Managed Service Property staff under The Misuse of Drugs Regulations (Northern Ireland) 2002, section 7 (f) can convey drugs to a lawful person. Managed Service staff could transport drugs and collect them and if they are conveying the drug to a lawful person it would seem that they could

submit them to forensics if by “submit” it means physically transport. Having a key to storage locations where drugs are held will not be appropriate as the circumstances in which a person other than a constable or other lawful person can possess controlled drugs are limited.

Ensure packaging complies with guidelines. Where the label is not properly/fully completed then a Non-Compliance should be issued and full details as required be requested from the seizing officer.

If the packaging complies, record the drug property on the Property Screen of NICHE. Proper and full recording of information is required for both FSNI submission and Statistics Branch recording.

Should there be any outstanding information – for all or parts of the exhibits – the incident should be set as D02 and required information chased up by Property staff. Statistics Branch will also sift through potential drug seizure incidents and use the D02 and D06 codes in this same way. The following PROPERTY information must be input on NICHE:

SERVICE INSTRUCTION

Field	Example
Type of Drug	Suspect brown resinous substance and what the drug is suspected to be, including control class, (A, B or C)
Description/ Format	Resin/Herbal/Tablets/Plants, markings, etc.
Value	Not required
Weight or Quantity	For those drugs measured in weight such as Cannabis Resin, Cocaine Powder etc., a weight must be declared in grams. The drugs should be weighed and a 'g' should be input after the amount seized (i.e. for 4 grams record 4g). This should be an approximate figure/best estimate For other drugs such as tablets the number of tablets should be recorded by either counting where practicable or by approximation based on weight
Label description	Verbatim of what is on the identification label. Weights must not be included on identification labels.
Seized by Officer Responsible	Officer Service number Officer Service number

Optional information in the "Remarks" field should be used to clarify any issue which may assist Stats. In addition the following **must** be input on NICHE

STATUS	WHEN TO SELECT
D02 Drug details outstanding	When any of above information is missing
D06 Drugs passed to Central Stats	When all of the above details are entered and are not awaiting a report from FSNI
D07 Drug query from Stats – NOT to be used by Property staff	To IO/OR or Property staff via OEL. Response to Stats should also be via OEL.

(The suspect, if any, should already be linked to the item of property. This process will allow Statistics Branch to record all the information fully from the seizing officer).

Removal of drugs from a secure store, other than for destruction

If there is a need to remove an item from a secure drug storage area in the Property Store, other than for destruction; the following procedure will be used where the receiver is present at the Property Store:

- (a) Before any property is released, both parties will visually check the item
- (b) If the item is correct, the person requiring its release from storage must electronically sign for it as well as signing/dating the identification label. They are then responsible for its safety until it is returned to the Property Store, unless they correctly transfer the property to another officer/staff member against signature and complete a notebook entry.

The Property officer will examine a returned item in the presence of whoever has returned it (unless returned by inward transit store). If everything is in order, the Property officer will sign/date the identification label and put it in a secure drug storage area. If any discrepancies are found the Property Manager /Duty Inspector must be informed without delay.

At all times, NICHE/HOLMES should accurately record the current status and location (or who the item is checked out to) of each item of drug property. All movement of drugs from one location to

another, while under the control of Property staff, must be fully recorded on NICHE/HOLMES.

Disposal of Drugs

The Property Manager should arrange destruction of drugs stored within the property system when authorised appropriately by the OR/IO or by Court Order for destruction at the incinerator. The relevant transport licence obtained from the DOE will accompany the movement and transport can currently only be undertaken by police.

When destruction of drugs is to occur the Property Manager will request an officer not below the rank of substantive Sergeant from an Area with little or no involvement in the seizure, investigation or storage of the drugs, to act as an “independent observer” of the destruction.

The designated independent observer will attend a Property Store on an agreed periodical basis and satisfy themselves that the items authorised for destruction are correct. This will be achieved by the Property officer preparing a list of drugs items to be disposed of in barcode order (setting the items to “pend disp” on NICHE) which will be checked off into a Burn bag by the independent observer, ensuring only drugs are present and any containers or

other paraphernalia which cannot be incinerated are removed.

Where packaging has to be opened to remove non drug material Health and Safety considerations may dictate that persons involved are wearing protective clothing, etc., in a controlled environment and that cleaning takes place afterwards to avoid any cross contamination to either persons or other property. The independent observer will then seal the burn bag with their own integrity label, appropriately mark the bag, and retain the physical list of the items in that burn bag. These bags will then be placed in a separate area within the Drugs store. When a burn is to take place the same designated independent observer will satisfy themselves all burn bags are present and have not been tampered with and will accompany the Property Officers to the burn. The independent observer will then dip sample 10% of the bags to be incinerated by opening these bags and checking the items off the physical list they have for each bag and witness their destruction. After witnessing the complete burn the independent observer will return to the Property Store and Property staff will bring up the list of items on NICHE disposed of in the burn. The independent observer will check this list against their physical list and a relevant entry will be made in the remarks box with the

independent observer then signing the electronic signature pad witnessing destruction and the items will be disposed of on NICHE.

A similar process will take place if the drugs are only recorded via HOLMES.

The Property Manager should ensure that the drugs disposed of are correctly recorded on NICHE/HOLMES on the day of the disposal.

12. Cash

The approach to the storage of cash is to reduce to a minimum the amounts held physically within the property/finance system. Money should not be stored in cash format unless absolutely necessary. It is important that the Officer in Charge provides clear instructions to Finance staff whether the cash is to be held as a sealed package (Inspectors authority required), or lodged in an interest bearing account. Cash must always be stored in a safe.

Seizure of Cash

Cash is normally seized under PACE provisions or Proceeds of Crime Act (POCA) legislation.

Where a POCA seizure is made, an application to retain the cash must be made to the local District Court where the

seizure was made within 48 hours of seizure.

The Magistrates court, upon application, may order further detention of this cash to permit police to investigate its derivation or intended use and, upon application, a Forfeiture Order can be granted by the court if the cash is recoverable property (obtained from unlawful conduct) or intended to be used in crime.

Prior to any planned search operation staff should be properly briefed as to their roles and responsibilities and that where POCA Financial Investigators are being utilised they are clearly advised as to the actions they must take should any cash be found. Detailed guidance relating to cash seizures can be found by going to the Policenet Organised Crime Branch page under Financial Crime,

When a cash seizure is made under POCA it is important to notify C1 Organised Crime Purple Team using the appropriate Form. This is required for PSNI to benefit from the Home Office Incentivisation Scheme, ARIS. The Purple Team or District Financial Investigator are available to provide advice on any aspects of cash seizures. If circumstances permit any cash seized after being counted/verified by two members/staff, must be logged or

otherwise recorded in an officer's notebook. This will be countersigned by the second officer/staff and the person from whom seized if possible. The money will be sealed in a tamperproof evidence bag and signed by both persons verifying the amount. It is recognised that this may not always be possible due to a variety of factors. The Officer will need to make a judgement call as to the approach adopted and record their justification for the action taken.

If the cash is not counted and verified at the scene it should be bagged and sealed in front of the suspect and they should be asked how much cash is present, with their reply noted. The cash should be labelled with a description of the cash and an estimate or exact amount stated. It is good practice to give the person in possession of the cash a receipt. The receipt should show the total amount seized, whether or not the total amount comprises smaller amounts claimed by different people and its estimated total if not counted. The receipt is in addition to any other receipt or form normally issued (e.g. premises search form and items seized receipt). This should be signed by the person found in possession of the cash and a copy retained for the file as well as being scanned onto the Reports tab on the NICHE occurrence.

Safekeeping of Cash

The District/Departmental Finance Office will be responsible for lodging monies in an appropriate interest bearing account as soon as practicable after corroborating the amount received and where this accords with the OR/IO's instructions.

During Finance Office hours: seized cash should be taken direct to the local Finance Office. If not required for forensic analysis the sealed bag will be opened in the presence of Finance staff and the money counted and verified by those present. Officers will record a notebook entry and those verifying the amount will sign the entry. Finance staff will provide the officer with an F7 receipt. The officer will complete a NICHE "Property" OEL entry including details of the identification number, OR, description, the F7 receipt number, amount and the location where the cash was lodged before termination of duty. The officer will workflow Property staff with all relevant details to enable the property to be recorded on NICHE.

Property staff will record on NICHE and flag for 11 months as per normal procedure.

Finance staff will flag for review in six months after receiving the cash. Reviews should then continue to be undertaken by Finance staff at regular periods appropriate

to the circumstances as determined by the District Services Support Manager in liaison with the officer in charge. Property staff will be informed of the outcome of reviews by Finance staff in order that they can update NICHE.

Outside Finance Office Hours: Cash will be deposited in a drop safe prior to termination of duty. The following procedure should be adhered to:-

- (a) If the cash has not been counted and is not required for forensic/other examination the sealed bag should be opened in the presence of two officers/members of staff.
- (b) The cash should be counted and verified by both persons.
- (c) The cash should then be placed back into the opened bag and this should then be sealed inside a new tamper proof bag.
- (d) The two officers/staff will both sign the new sealed bag, provide their police/staff numbers, state the amount and complete all details.
- (e) The two officers/staff will complete the warrant drop safe book with, "Seized cash re Occurrence (number) for lodgement in a bank account" being inserted at the entry for, "Warrant Numbers".
- (f) If the cash is required for forensic/other examination complete the warrant drop

safe book with, "Seized cash re Occurrence (number), sealed package for forensic examination" and record the Inspector who has authorised.

- (g) The drop safe book number and page number will be recorded on the tamper proof bag, prior to deposit in the drop safe.
- (h) A NICHE "Property" OEL entry will be made concerning the counting of the cash, its identification number, description, amount/sealed package and its location. Property staff will be work flowed advising "Cash (amount/sealed package) (identification number) for collection by Finance" and the IO and OR identified together with relevant details to enable recording on NICHE property. Property staff will set the normal 11 month review. In addition an e-mail will be sent to Finance by the IO/OR advising of the need to collect from the drop safe and either place in an interest bearing account or retain as a sealed package (in which case the Inspectors written authorisation will be included) and the IO/OR details.
- (i) Finance staff collecting cash will follow the same process as for Fine warrant money recording collection in the warrant drop safe book/ causing an OEL entry to be made and flag for Finance to review in six months and as appropriate, thereafter.

- (j) Finance staff will issue a receipt to the IO/OR containing C&C serial/RM number and amount (unless a sealed package, in which case sealed packet number is referred to). The receipt number will be recorded on NICHE via "Property" OEL entry by the IO/OR and they will retain the receipt.

Sealed Cash Packages for Forensic/other purposes: Occasions where it is necessary to hold sealed cash packages for evidence should be rare and should only be undertaken where the officer in charge specifically requests it and has the written authority of an officer of not less than Inspector rank.

If money is being held in cash form the above arrangements set out will be followed regarding notifications to Finance and Property staff. Property staff will set the property review flag at 11 months as per normal procedure. The District Services Support Manager will make arrangements for safekeeping in liaison with the officer in charge regarding continuity. The Department/District Services Support Manager must ensure the circumstances surrounding continued retention in this format are reviewed no later than six months after the cash entered the property/finance system.

Reviews should then continue to be undertaken by Finance staff at regular periods appropriate to the circumstances as determined by the District Services Support Manager in liaison with the officer in charge. Property staff will be informed of the outcome of reviews by Finance staff in order that they can update NICHE

Cash removal from Finance Care

When the cash is to be removed from Finance Care the IO/OR should collect personally on production of the receipt and a full notebook entry made and Finance records updated appropriately.

This should be authorised by the OR/IO having received any appropriate authorisations which will be notified to the BSM and Property staff. The BSM will make appropriate arrangements in liaison with the officer in charge. The BSM will ensure that NICHE/HOLMES records are updated appropriately in liaison with Property staff and the OR/IO. The BSM will ensure Finance records are updated with a copy of any relevant authority for disposal included.

The same audit principles regarding the seizure, retention and disposal of cash will apply where HOLMES is utilised. If the cash is not returned within 30 days by the returning person then the procedures

within Methods of Disposal apply and Finance records will also be updated accordingly.

Counterfeit Currency

This also includes counterfeit coins, imitation banknotes and equipment for counterfeiting. A SPOC is available within the link Red team, C1, should any advice be required.

All recovered counterfeit currency coming into the possession of Police or other law enforcement agencies should be submitted to the UK National Central Office (UKNCO) at NCA. SOCA UKNCO Workflow provides details of the process for Property staff.

Counterfeit Goods

The Intellectual Property Crime SPOC is within the Red Team, OCB. Advice is available regarding investigation via the link Counterfeit Goods.

Counterfeit goods may be subject to various forms of disposal; this depends upon the nature of the item, safety and the interests of the manufacturer whose goods have been copied and local council environmental requirements.

At the termination of an investigation, goods can only be disposed with the -

- authority of a court following legal proceedings;
- authority of a District Commander/HOB or nominated deputy Report; or
- Written authority of the person from whom the goods were seized.

Types of disposal processes include:-

- Making unusable by breaking, tearing or shredding and disposing as general waste e.g. clothing.
- Incineration
- Charitable causes agreeable to legitimate manufacturer whose goods were copied, contact details can be obtained via the Red Team SPOC, OCB.
- Making unusable by industrial crusher. E.g. DVD's/CD's
- Other suitable means as directed by Court

When effecting disposal, risk assessment provisions will be made for the safe disposal of any hazardous goods in compliance with any regulations that may apply.

After any counterfeit goods have been disposed of the NICHE occurrence must be updated to show details of the action taken and where applicable a written receipt obtained where the property is disposed of, other than by destruction. It is the

responsibility of the person effecting such a disposal to have the receipt scanned on to the Reports tab of NICHE and retained within the copy file. Where applicable the receipt will include an indemnity or acknowledgement by the person receiving not to sell the goods and to only use the property in the manner prescribed.

13. Human Tissue samples

Information on the investigation procedures relating to Human Tissue are contained in the Death Investigation Service Instruction.

These samples are mostly taken at post mortems. They are seized by a CSI and logged/flagged on NICHE with a workflow being sent to the OR/IO. All human tissue samples with the exception of blood, urine, gastric contents, nail scrapings, hair samples and body swabs are stored within the State Pathology Department, SPD, from the outset.

In the case of blood, urine, gastric contents, nail scrapings, hair samples and body swabs for immediate analysis at FSNI, the CSI will retain these and record the CSI Fridge location on NICHE. These samples are then collected by Property staff who will transport them to FSNI once they have received FSNI authorisation. Property staff will receive the "Report

Schedule” from FSNI which they will scan onto NICHE as “other document”. This will act as a receipt for the items delivered.

When property staff collect Human Tissue after analysis they will log it onto NICHE in the normal manner and return it to Police premises for storage, as appropriate.

It is the responsibility of the OR/IO to update property staff of the requirement to change the status of items when there is no longer a need for police retention. The status will change from police retention, for example, when the Coroner accepts responsibility for the items continued retention, or where the item is not required by the Coroner and authorisation is given by the OR/IO for its repatriation or destruction by either SPD or PSNI. New NICHE status are currently being made available on NICHE and pending this, all changes in status should be recorded in the OEL.

14. Biometrics

DNA Casework Samples:

With the implementation of the Criminal Justice (Northern Ireland) Act 2013 (CJA (NI) 2013) and Protection of Freedoms Act 2012 (PoFA 2012), certain types of biometric material (DNA and fingerprints) will be retained on the basis of age of

offender at time of offence, disposal of case, legislation under which the material was taken and seriousness of the offence amongst others. As a result of this, the definition of biometric material to be considered under the two pieces of legislation has removed casework DNA samples from the time limits imposed on Criminal Justice Samples (CJ).

It has been recognised DNA Casework Samples, primarily DNA buccal swabs, are evidential material, used to prove or disprove the involvement of a person in a criminal act. These samples are used to compare against crime stains from a particular case, and if taken in custody following an arrest can then be speculatively searched against the whole crime stain database just as CJ samples are.

Casework samples taken from a voluntary attendee can only be searched against the crime stains held in that case, and are not speculatively searched against the remainder of the database.

When taken casework samples should be handled and packaged as per service guidelines, and recorded on NICHE property tab.

It is important that when recording Casework Samples on NICHE that the

correct subgroup is chosen from the pick list in “investigative material”. The only change in the current process will be the change of a single option under “Type”, namely “Suspect/Victims Samples” to individual options of “Suspects samples” and “Victims Samples”. This will specifically link the material to either a suspect or victim rather than mix the two.

Steps for Suspect DNA Material:

- 1: Property
- 2: Investigative Property
- 3: Type – Suspect samples (new pick in list)
- 4: Desc – Buccal Swab

The reason behind this change is to facilitate an efficient method of searching for and locating suspect’s DNA material that has been taken in the course of an investigation. This will allow investigating officers and property managers to work effectively in deleting or destroying such material once it is no longer relevant to the investigation.

Rules governing the retention of investigative material are found in the Criminal Procedures and Investigation Act 1996.

Rules governing the retention and disposal of biometric material as defined in CJA (NI)

2013 can be found in the Criminal Justice Act (NI) 2013 and Protection of Freedoms Act 2012.

15. Vehicles

Roads Policing handles enquiries regarding removal of vehicles from the road and recovery arrangements (Vehicle Recovery Liaison Office, Road Policing Development).

The below are summaries of the processes affecting recovered vehicles:

1. Serious incident in which an “Unmarked” Fully Enclosed Box Covered Transporter (FEBCT) is used (i.e. Tier 3 Op Mango Recovery – Serious Crime / Terrorist Related). The Officer In Charge (OIC) contacts CMC to request recovery and specifies recovery requirements to meet forensic demands and security situation. CMC creates C&C serial and contacts AADL (Managing Agent) who in turn tasks the most appropriate Vehicle Recovery Operator (VRO) for the circumstances. VRO attends scene in a FEBCT, complete with PPE protective equipment and at the direction of the CSI/OIC, recovers the subject vehicle. The vehicle is then conveyed to a specified Police Station for CSI examination (e.g. DNA etc.). On completion, the subject

vehicle remains in a suitable Police establishment for storage. (Under these arrangements, the vehicle is the responsibility of the OIC).

2. As at Paragraph 1, but on completion of all examinations at the Police Station, the OIC contacts CMC and directs that the subject vehicle is collected by a VRO and taken to the VRO secure yard for storage until further direction is given. Under this arrangement, Vehicle Recovery Liaison manages the vehicle retention and regularly reviews its retention with the OIC. The OIC is responsible for ensuring that Vehicle Recovery Liaison is supplied with suitable instructions to correctly manage the retention process.

3. Recovery for everyday events (e.g. Recovered Stolen Vehicle / RTC / Abandoned / Used in Crime, etc.). The on scene officer in charge, contacts CMC who in turn, creates a C&C serial and a VRO is tasked via the Managing Agent to recover the subject vehicle and retain it back at their secure yard. CSI examination facilities are available at the VRO's yard for fingerprinting, photographs etc. Once the vehicle has been examined, the vehicle can be released or retained as directed by the OIC.

Throughout each of these scenarios, the OIC is required to keep Vehicle Recovery Liaison office updated by submitting a Form T23.

Please note that the Managing Agent provides the PSNI Vehicle Recovery Liaison Office with secure access to its computerised vehicle management system, which holds details of each recovered vehicle, its storage and subsequent disposal.

The OIC should consider the necessity to retain a vehicle once any forensic investigation has been completed and photographs taken. Consideration should be given to the disposal of the vehicle unless there is also some physical or mechanical aspect to the investigation. Advice should be sought from the PPS in appropriate cases.

16. Computers, Electronic Organisers, Mobile Phones etc.

There are general principles to follow when dealing with computer-based electronic evidence at any crime scene and during any investigation that involves such evidence. These are:-

Principle 1

No action taken by law enforcement agencies or their agents should change data held on a computer or storage media which may subsequently be relied upon in court.

Principle 2

In circumstances where a person finds it necessary to access original data held on a computer or on storage media, that person must be competent to do so and be able to give evidence explaining the relevance and the implications of their actions.

Principle 3

An audit trail or other record of all processes applied to computer-based electronic evidence should be created and preserved. An independent third party should be able to examine those processes and achieve the same result.

Principle 4

The person in charge of the investigation has overall responsibility for ensuring that the law and these principles are adhered to.

It is important that the data on any computer, electronic organiser or other digital recording device is not damaged, deleted or otherwise compromised. This can occur simply by examining the

computer files stored on the equipment. Every action during such an examination will be recorded on the hard drive and may delete vital evidence.

If you reasonably believe a computer is destroying evidence, immediately shut down the computer by pulling the power cord from the back of the computer (not the wall socket) or removing the battery pack from a laptop. WARNING, pulling the plug on a business server could severely damage the system, cause the loss of critical evidence and disrupt legitimate business.

At the point of seizure, the device should normally be switched OFF (except in the case of a PDA). If you reasonably believe that a document currently open or program currently running is likely to contain data of evidential value then DO NOT power the computer down and instead call the Cyber Crime Centre for advice. DO NOT attempt your own search of the displayed material. If you believe that the suspect may be using encryption, if for example he or she has a high level of technical knowledge, call the Cyber Crime Centre for advice before powering down the computer. If an investigating officer decides a device must remain switched on then a thorough written record of this decision should be made detailing the reasons.

There is no substitute for having properly trained Cyber Crime personnel immediately available where it is anticipated that IT equipment will be seized and subsequently examined for evidence. Advice may be sought from the Cyber Crime Centre or the District/Departmental E-Crime Support Unit (DESU) or alternatively via the link Cyber Crime.

IT devices are likely to contain personal data e.g. names, telephone numbers, personal information, etc. The PSNI has a duty under data protection legislation to prevent unauthorised disclosure of this information when investigating/disposing of such a device. Therefore, when arrangements are made to dispose of or retain for use electronic devices, PSNI must take reasonable steps to ensure that all personal data is protected and that the device is disposed of or used in a secure manner.

Except where being returned to an owner any electronic evidence- related item capable of holding personal data may be disposed of via the Cyber Crime Centre.

Details of the authority for disposal must be provided. This may consist of written consent of the owner, a court order, police instruction where no owner is known or other official means.

Depending on the authority presented the equipment will be destroyed either physically or forensically by Cyber Crime personnel.

17. Background

Section 32 of the Police (Northern Ireland) Act 2000 specifies the general functions of the police. These functions include: protecting life and property; preventing the commission of offences and where an offence has been committed, to take measures to bring the offender to justice.

The correct seizure, retention and management of property is integral to these general functions and to the presentation of prosecution evidence at Court.

It must also be borne in mind that every piece of property creates a bureaucracy, taking up space and creating accommodation costs. The PSNI has limited storage and capacity to process property. It is important that officers make balanced, proportionate and effective decisions on **what** should be seized and **why** they are seizing it. Retention must follow corporate guidelines and comply with legislation.

The Victim Charter contains the following “Charter Standard” regarding the return of property:-

The police are usually responsible for the return of property taken to help the police investigation or court proceedings, generally on the advice of the Public Prosecution Service (PPS). Following a decision by the police you are **entitled** to have any recoverable property returned to you as soon as possible, unless it is needed for the purpose of the police investigation or criminal proceedings or its return would constitute an offence. The police will make arrangements with you for the return of the property, at a police station.

Origin

The PSNI is committed to ensuring all property coming into Police possession is effectively handled, recorded, stored, retained or disposed of in line with organisational business requirements and the Police (Property) Regulations (NI) 1997.

Implication

It is necessary that Districts/Departments have robust governance arrangements in place for the management of property. This will include providing adequate storage

facilities, and staffing capacity, to comply with requirements.

Application

This Service Instruction has been prepared for police officers, police support staff, managed services staff and other agencies involved in crime investigation and property management.

It applies to all property coming into the possession of police as a consequence of the investigation of crime.

18. Strategic Governance

The Corporate Property Management Group (CPMG)

The CPMG is chaired by a Chief Superintendent and meets on a quarterly basis. It deals with strategic issues raised regarding property management across all Districts and Departments. Its purpose is to ensure that the PSNI is carrying out its legislative responsibilities with respect to property, and has the necessary resources, infrastructure and supply procurement contracts to do so.

The remit includes ensuring that effective mechanisms are in place to audit and inspect operational processes and that corporate procedure and guidelines are effective.

The CPMG membership includes representation from Districts, Crime Operations, HR (Contract Management) and Estate Services.

Section 78 Accountability Meetings

Property management and performance will form part of the Section 78 Accountability meetings. The self-inspection template at [Appendix A](#) will assist Districts/Departments in their preparation.

Appendix A District / Departmental Property Self Inspection

Improving Quality and raising standards in property management.

Is an effective **Local Property Management Committee (LPMC)** in place?

Do quarterly meetings take place chaired at District Commander or nominated senior officer level?

Are minutes/actions recorded and followed up in an auditable manner?

Health and Safety review

Are there suitable and sufficient Risk Assessments relating to activities within all property storage facilities? Have any actions been prioritised to manage potential employer liability risks, whilst ensuring the security and integrity of property?

Property Management Facilities review.

Transit store facilities review.

What facilities exist at custody, if applicable?

Do property facilities have adequate integrity? How effective are access restrictions.

Are there appropriate facilities in respect of heating, light, shelving and packaging?

Are there appropriate facilities for drugs, hazardous substances, high value items, money, firearms and explosives?

What facilities exist for managing bulk items?

What facilities exist to transport property, including drugs and firearms?

What facilities are available to dispose of property?

Staffing Arrangements review.

Are staffing levels appropriate

What arrangements are in place for the control, management and transport of drugs and firearms?

Quarterly Property Inspections

Is there auditable evidence of dip-sampling?

NICHE/HOLMES to Property

Property to NICHE/HOLMES

Checks to ensure integrity of packaging and property is not kept outside the designated storage areas.

Checks to ensure property is stored in secure locations in line with H & S and the safety and integrity of the property is not compromised

Checks to ensure that appropriate continuity records have been completed for the transfer of all property

Checks to ensure that closed occurrence property is disposed of in a timely manner, where appropriate

Checks to ensure there is auditable evidence of a cleaning regime.

Weeding

Evidence of an effective property review/weeding process and disposal in a timely manner.

Evidence of an audit trail for items disposed of.

Evidence that Serious Crime exhibits are being appropriately migrated to the SCES.

Evidence that Organised Crime exhibits are being appropriately migrated to the C1 NICHE store.

LPMC Minutes reflect performance regarding property added, reviews, weeding and disposals.

Focus groups with practitioners.

Is there knowledge of procedures?

Is there knowledge of storage facilities and do all staff use the same naming etiquette for referring to these in continuity statements etc?

How do property staff/practitioners communicate?

Appendix B Useful Links

[Niche Help Guide](#)

[FSNI Submission Overview](#)

[Searching for Property Owners](#)

[Flagging and Review of Retained Property](#)

[Serious Crime Exhibits](#)

[Methods of Disposal](#)

[Summary Property Disposal](#)

[Health and Safety General Advice](#)

[Guidance Procedure for Disposal of Firearms Munitions and Ancillary Equipment](#)

[SOCA UKNO Workflow](#)

[Biometrics](#)

[Property Indemnity Form and Receipt](#)

Appendix C Contact Us

Service Instruction Author

Criminal Justice Branch

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