

# Transparent

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Police use of stop and search powers must be transparent and accountable.

## Why does transparent matter?

Transparency may be crucial to public trust and confidence in the use of stop and search powers, by making it possible for the public to:

- see how and why stop and search powers are used
- assess what impact it might have had

Not all disproportionalities result from deliberate or intentional behaviour<sup>1</sup>, but this is not always apparent from headline figures presented in the media or produced from analysed data. The police have the potential to improve public perceptions by:

- encouraging better public understanding of police practices<sup>2</sup>
- showing whether powers are being used in a fair and effective way
- being open about when things have gone wrong and what steps have been taken to rectify them

Doing so may reassure the public that there is genuine responsibility and accountability for police actions.

Transparency requires data to be of sufficient quality to permit analysis of trends or patterns. Individual encounters must be documented in sufficient detail so that they can be reviewed to assess whether or not the powers are being used in the right circumstances and for the right reasons. Where concerning trends or patterns are identified at individual, unit or force level, the relevant people within forces (for example, chief officers, supervisors) should be proactive in taking steps to address them.

Achieving greater transparency is also one of the principal aims of the Home Office and College of Policing's 2014 [Best Use of Stop and Search Scheme](#) (BUSSS).

## What does transparent mean in the context of stop and search?

There should be a transparent approach to the use of stop and search powers at individual, supervisory, force and public scrutiny levels.

- Officers using the powers must record individual encounters in sufficient detail so that they are capable of being reviewed.
- Supervisors must monitor the use of the powers by those for whom they are responsible and address any issues identified.
- Those at senior levels must ensure that data is analysed and acted upon.
- Force policies must support and promote the fair and effective use of stop and search powers, and must facilitate public scrutiny of their use.

## Accurate recording of individual encounters

Accurate recording of encounters makes scrutiny possible, both internally (by supervisors and at force level) and externally (by the public). Records may also be subject to freedom of information requests to make the information public.

## Stop and search

### The record

The officer conducting the stop and search must ensure that a record is made of every stop and search encounter, including where the person is subsequently arrested. A record is required for each person and each vehicle searched.

### Record of vehicle search

There need only be one record if a vehicle and its driver are searched under the same grounds. If more than one person in a vehicle is searched, a separate record must be completed for each person. If only the vehicle is searched, a note must be made of the self-defined ethnicity of the

person in charge of the vehicle (if provided) and, if different, their ethnicity as perceived by the officer conducting the search, unless the vehicle is unattended.

### **Mandatory details**

The record must always include the [minimum details](#) specified in Code A:

- a note of the self-defined ethnicity of the person being searched (if provided) and, if different, their ethnicity as perceived by the officer conducting the search
- the date, time and place the person was searched
- the object of the search (the article the officer was searching for), such as an offensive weapon or bladed article, drugs, stolen property or items for use in theft or criminal damage
- a clear explanation of the legal basis for the search (the reasonable grounds for suspicion or authorisation)
- the identity of all officers conducting the search – where recording the names would cause a risk to the officer or if the investigation relates to terrorism, warrant or identification number and duty station can be given instead

### **BUSSS requirement**

[Paragraph 1.4 of the BUSSS](#) specifies that data must be made available that shows whether the object of the stop and search is connected to the outcome. To comply with the BUSSS, therefore, the record should also state:

- whether or not anything was found
- if it was linked to the reason for the stop and search and
- the outcome of the stop and search

### **APP requirement**

Where a search exposing intimate parts of the body (EIP search) is carried out, the search record should include confirmation that a supervisor was consulted, who this was and when they were consulted.

Code A does not require the person searched to give their name, date of birth, address or any other contact details. Officers must take care not to create an impression that the person is obliged to do so.

### Recording the legal basis for the search

The officer must record:

- the search power used
- a detailed explanation of why the power was used – what this should include depends on the power used

### APP requirement

If the search is an EIP search, the explanation should include the reasons why an EIP search was necessary (the reasons discussed with the supervisor).

Officers should consider the [National Decision Model](#) when developing their rationale for the stop and search. Framing their reasoning in this structured way can help to explain decision making in a witness statement or in court if required.

### Powers requiring reasonable grounds for suspicion

The officer should describe the reasons prompting them to search the person. This should include:

- any specific intelligence or information and its source
- any specific behaviour by the suspect
- the suspect's answers to any questions asked
- any other relevant information

The officer does not need to provide unnecessarily lengthy information. They must, however, provide a sufficiently detailed explanation of the grounds to enable a reasonable person to assess whether their grounds were reasonable. If the officer provides insufficient detail for a third party to judge this, the officer cannot meet the second step of the legal test (that the grounds for stopping and searching are **objectively** reasonable).

See also [reasonable grounds for suspicion](#) and Code A, [paragraph 2.2](#).

The officer should ask themselves if:

- they have provided enough information for someone else to understand their decision and
- that information is specific and detailed enough to make it possible for someone else to judge whether a reasonable person would also have suspected a specific individual of carrying a specific item in those specific circumstances

**Section 60 Criminal Justice and Public Order Act 1994 (CJPOA)**

Under Code A, [paragraph 4.3\(d\)](#), officers must record:

- the nature of the power
- the authorisation
- the fact that authorisation was given

In addition, [paragraph 2.14A](#) of Code A states that section 60 powers must not be used for reasons unconnected to the purpose of the authorisation. Although not a mandatory recording requirement under Code A, chief officers should actively consider whether or not to require officers to record:

- the reason why the search of this individual is connected to the purpose of the authorisation

This is not about requiring officers to have reasonable grounds for suspicion, but making it possible to show that the power is being used within the limits of the authorisation and in an objective manner compatible with paragraph 2.14A. It is the responsibility of the senior officer granting the authorisation to ensure that its purpose is clearly articulated and communicated to officers.

The driver of a vehicle or any person stopped under [section 60](#) is entitled to a written statement that they have been stopped and searched under that section if they apply within 12 months of being stopped. It may be part of a search record or of a separate record.

**Powers to search persons when searching premises**

[Section 139B of the Criminal Justice Act 1988](#) and [section 23\(3\) of the Misuse of Drugs Act 1971](#) both require reasonable grounds for the search of premises (and in the case of section 23(3), a warrant), but no prior grounds specific to the individual being searched.

Code A does not specify any recording requirements for these powers but states in [paragraph 2.29](#) that the decision to search a person on the premises should be based on objective factors relevant to the reason for searching the premises. Although not a mandatory recording requirement under Code A, chief officers should actively consider whether or not to require officers to record:

- the reason why the search of this individual is relevant to the reason for searching the premises

#### **Using body-worn video to record information**

Where available, body-worn video (BWV) should be used in accordance with force policy. The standard approach is that BWV should be activated, so as to capture all relevant information in the time leading up to the person being detained for a search, the conduct of the search itself and the subsequent conclusion of the encounter.

Where an EIP search takes place, officers should record the encounter in accordance with force policy, but should cover the camera (or direct it away from the person) whenever intimate body parts are exposed. Audio recording should remain activated. The officer should explain to the person that the recording is for the protection of all parties and reassure them that intimate parts will not be filmed.

Retention periods for BWV footage are a matter of force policy due to variation in capabilities and cost implications. When developing their retention policy, forces should bear in mind that search records can be requested for up to three months under paragraph 3.8(e) of Code A.

#### **Procedural requirements**

Under [Code A](#), the procedural requirements for recording a stop and search differ slightly according to whether or not the search results in an arrest.

In all cases, the officer must make an electronic or paper record of the stop and search unless exceptional circumstances make that impossible – for example, major public disorder. The record should be made immediately or as soon as practicable after the encounter. Officers should also

record the stop and search data on the appropriate force system as soon as possible in accordance with force policy.

The person searched must be offered a copy of the record of search. If the person accepts this offer or independently requests one, the officer must give them a copy on the spot or a receipt (in a format complying with local force policy) explaining how to get one. If the officer is called to an incident of higher priority and it is not practicable for them to give the person a copy or a receipt at the scene, the officer should give the person the details of the police station where it may be requested.

Where the search results in an arrest (other than where the person is granted street bail and not brought into custody), responsibility for asking the person if they want a copy of the record transfers to the custody officer. The search officer is still responsible for ensuring that a record of the search is made as part of the custody record.

#### **Unattended vehicle**

If the search is of an unattended vehicle or anything in or on it, the officer must leave a notice in or on it to say it has been searched. This should include the name of the officer's police station and how to get a copy of the record or claim compensation. The officer should leave the vehicle secure if possible.

## **Other types of encounters: local monitoring of disproportionality**

#### **Detained for search but search does not take place**

If a person is detained for the purpose of a search, but the officer subsequently decides that the search is no longer needed following questioning, the person must not be searched. There is no national requirement to complete a record in these circumstances.

Code A [\*\*guidance note 22A\*\*](#) suggests that forces can decide whether officers are required, locally, to record the self-defined ethnicity of persons detained but not searched, where there are concerns requiring local monitoring of disproportionality. Forces may also decide that officers must record such encounters even where there are no particular local concerns, as a measure of reassurance internally and to local communities. Local guidance should be provided where this applies and records should be closely monitored and supervised.

In order to help avoid dissatisfaction and prevent the person later questioning why the encounter was not recorded, the officer should explain to the person they have detained why they will not be completing a stop and search record. The officer should have already explained the original grounds for search at the point at which the person was detained. The officer may find it useful to make a brief record in their pocket notebook of why the person was detained and the reasons why no search took place, to safeguard against any subsequent complaint.

### **Stop and account**

There is no national requirement for a record to be made of a stop and account.

Code A [guidance note 22A](#) suggests that forces can decide whether officers are required, locally, to record the self-defined ethnicity of persons stopped and asked to account for themselves, where there are concerns requiring local monitoring of disproportionality. Forces may also decide that officers must record such encounters even where there are no particular local concerns, as a measure of reassurance internally and to local communities. Local guidance should be provided where this applies and records should be closely monitored and supervised.

If a person asked to account for themselves requests information on how to complain about how they have been treated, the officer should provide this. Any public encounter where a member of the public expresses dissatisfaction should be recorded in accordance with force policy to:

- safeguard the officer
- ensure transparency

### **Section 163 Road Traffic Act 1988 (RTA) and Police Reform Act 2002 (PRA) powers**

Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS) recommends that:

*There should be a set of minimum recording standards for [section 163 of the RTA](#) and [PRA](#) powers for the purpose of assessing their effective and fair use.*

For full text see HMIC. (2015). [Stop and Search 2 Recommendation 3](#).

The Home Office has indicated that they are considering extending Code A to encounters under [section 163 of the RTA](#), but this does not currently apply.

[Section 163 of the RTA](#) and the [PRA](#) powers are subject to the same general obligations as any other police power: the duty not to discriminate on grounds of protected characteristics ([section 149 of the Equality Act 2010](#)), and the duty not to act in a manner incompatible with the ECHR rights of any individual ([section 6\(1\) of the Human Rights Act 1998](#)) of the Human Rights Act 1998. This means that it is unlawful to use these powers in a discriminatory way.

Consequently, although there is no national requirement for a record to be made of stops under these powers, forces may wish to adopt a similar approach to stop and account (to consider requiring officers to record self-defined ethnicity of persons stopped under section 163 of the RTA or a PCSO power under the PRA where there are concerns requiring local monitoring of disproportionality and effectiveness). Forces may decide whether officers are required, locally, to record such encounters even where there are no particular local concerns, as a measure of reassurance internally and to local communities. Local guidance should be provided where this applies and records should be closely monitored and supervised.

## Supervision and monitoring

Effective supervision and monitoring of stop and search practice requires input and ownership at all levels. Everyone has a role to play, up to and including chief officers, and police and crime commissioners (or their equivalents: Mayor's Office for Policing and Crime for the Metropolitan Police Service, City of London Corporation for the City of London Police and the British Transport Police Authority).

All those involved in the supervision and monitoring of stop and search practice (including external stakeholders) should be mindful that the primary purpose of stop and search powers, as stated in Code A [paragraph 1.4](#), is to enable officers to allay or confirm suspicions about individuals without exercising their power of arrest. Where a stop and search is negative and does not result in an illegal item being found, it may still be regarded as a legitimate outcome if it is conducted in a fair, lawful, professional and transparent way. Supervisors, and senior officers in particular, should focus on the lawfulness of search activity (in basis and in application), its effectiveness, and its compliance with professional and procedural requirements. They should recognise and support good stop and search practices by officers, even where nothing is found.

## Understanding disproportionality

Disproportionality in stop and search, including racial and ethnic disproportionality, is driven by a range of factors, both internal and external to the police<sup>3</sup>. Not all of these can be addressed through police action. Closely monitoring any disproportionality can help ensure that its nature, extent, possible causes (for example, deliberate targeting) and consequences are better understood. This may help forces to decide what, if any, police action is required to address it.

In its 2013 report, [Stop and Think Again](#), the Equality and Human Rights Commission (EHRC) identified a number of [key steps](#) that appeared to contribute to a reduction in race disproportionality. They are a combination of improving officer awareness of what constitutes good stop and search practice, and stringent monitoring of its use.

Officers using stop and search powers should be supported through:

- training in reasonable grounds for and proportionate use of the power
- training in sufficient and accurate recording of grounds

Other key steps identified by the EHRC in its report as contributing to a reduction in race disproportionality at senior and supervisory level include:

- senior level commitment and leadership, including the appointment of a senior officer with overall responsibility for the stop and search programme (a dedicated force stop and search lead)
- a written policy based on good practice
- promoting intelligence-led practice and prohibiting practice based on subjective hunches
- examination of patterns over time at force level
- an external reference group of constructively critical members
- micro-monitoring to identify and address any skewed racial patterns at individual or area level

## Understanding effectiveness

There is very little research on the impact of stop and search on crime<sup>4</sup>. Some studies suggest that higher rates of stop and search may be associated with lower than expected rates of crime, but where a link has been found it is usually weak. General increases in stop and search are, therefore, unlikely to have much of an effect on crime, although stop and search may have more of an impact in crime hot spots<sup>5</sup>. Stop and search may be most effective if used as part of a problem-solving approach aimed at active prolific offenders<sup>6</sup>. Given the available evidence on effectiveness, forces

should closely analyse the impact of different stop and search powers on a range of crime types to identify how practice could be improved.

## Monitoring at supervisor level

Supervisors should seek to establish a supportive environment in which open and effective challenges can take place. Officers should be confident they will be supported in their use of stop and search, provided their decisions and conduct are lawful, fair, professional and transparent. Supervisors should acknowledge that searches can be legitimate even where nothing is found, recognise and share promising and compliant practices, highlight positive encounters and support officer development where it is needed.

Supervisors must monitor stop and search to ensure that its use is appropriate, is lawful and complies fully with Code A. This should enable them to account for its use. The supervision of stop and search should not be viewed as a 'tick box exercise'. The nature, extent and frequency of this monitoring should be proportionate to local or force concerns. Monitoring activity should ordinarily include:

- scrutinising the stop and search records of all those under their supervision to ensure:
  - compliance with the recording requirements (is the record complete and are the grounds made out?)
  - compliance, where applicable, with the BUSSS requirement to record whether or not anything was found, if it was linked to the reason for the stop and search, and the outcome of the stop and search
  - accurate transfer of the record onto the relevant force data system
  - that the written grounds are sufficiently detailed and reasonable (forces may require supervisors to check every stop and search form)
  - compliance with Code A and other procedural requirements (for example, gender of search officer, appropriate referrals and safeguarding notifications being made for children and young people)
  - consideration is given to whether there is any evidence that powers may have been used on the basis of stereotyped images or inappropriate generalisations
- examining team-level and officer-level data to understand trends and patterns in stop and search use, for example:

- the number of repeat (unsuccessful) searches of the same person
- the proportion of searches resulting in an arrest or other criminal justice outcome
- the proportion of searches based on information and intelligence, focused on force or local priorities, targeted towards active prolific offenders and/or carried out in recognised crime hot spots

Options for more proactive supervision that supervisors should consider include:

- reviewing BWV footage of stop and search encounters (where available)
- directly observing stop and search encounters while on patrol
- listening into stop and search encounters over the radio
- debriefing stop and search encounters in person with individual officers while reviewing the stop and search record
- exploring complaints, or any other evidence of dissatisfaction, related to stop and search
- keeping their own records of EIP consultations – who, when and what the outcome of the consultation was (reasons and whether EIP search went ahead) – so that these can be cross-referenced to officer records

Supervisors should not use volumetric performance targets to assess stop and search and should not use the number of searches as a measure of officer productivity. If quantitative frameworks are used, they should be accompanied by measures to mitigate the risk of unintended outcomes.

Supervisors should aim to use monitoring and more proactive supervision to identify and encourage promising practices, highlight development needs and see where additional or closer supervisory support may be required.

Supervisors must take timely and appropriate action if any concerns come to light about a team's or an officer's use of stop and search – for example, if an officer does not respond positively to additional support or breaches professional standards of behaviour. The appropriateness of the response will depend on the circumstances of each case. It may also be appropriate for supervisors to escalate concerns to a more senior officer, to take formal management action or to liaise with professional standards for them to consider disciplinary action. Supervisors should refer to the Code of Ethics, employment law, and human resources policies and guidance when developing their response.

Supervisors should also record their monitoring, proactive supervision and any follow-up activities in relation to team and officer use of stop and search and any relevant outcomes of these activities.

Supervising officers are responsible for ensuring that their officers complete stop and search training as required by force policy. They should allocate training time and monitor completion levels. They should ensure that officers' learning is kept up to date as appropriate and that additional learning is undertaken where there is a development need. Supervisors should also consider what additional action may be required at a local level to support the training, in order to maximise its impact.

## **Monitoring at senior officer and force data level**

Senior officers with local and force-wide responsibilities must proactively monitor the broader use of stop and search powers and take action where necessary. In the areas for which they are responsible, senior officers should familiarise themselves with the patterns and trends in the data, so that they understand and are able to account for how stop and search has been used. The extent, nature and frequency of monitoring should be proportionate to local or force concerns. Senior officers may, for example, decide that every stop and search form must be subject to additional supervisory checks, or may commission advanced statistical analysis of the annual stop and search data. Senior officers must be in a position to articulate their force position with regards to the fairness, effectiveness and proportionality of their stop and search activity at all times.

Monitoring may include:

- identifying any disproportionality in stop and search and other encounters, and exploring its possible underlying causes (eg, repeat encounters involving the same person)
- analysing the overall effectiveness of stop and search, such as:
  - the proportion of searches that lead to an arrest or other criminal justice outcome
  - the frequency with which the item searched for was found
  - the possible contribution of stop and search to crime reduction relative to other policing activity
  - mapping stop and search activity against crime
- exploring the extent to which different stop and search powers are being targeted appropriately – for example, towards active prolific offenders, in crime hot spots, against force priorities, and/or based on intelligence and information

- identifying possible community tensions resulting from stop and search practices
- inviting and responding to public feedback on stop and search practices
- for the purposes of compliance with BUSSS, examining the relationship between the item searched for and the outcome of the search

Monitoring at a strategic level should be used by senior officers to identify promising and potentially problematic practices. Senior officers should ensure that any problems with the use of stop and search are explored using a range of different sources of information, and that their possible causes are understood. Where necessary, they should develop an appropriate response to address the problem and its possible underlying causes. Where promising practice is identified, senior officers should have a system in place to ensure that it is cascaded to officers and supervisors.

Senior officers should also take steps to ensure that supervisors carry out their duties effectively in respect of monitoring the use of stop and search by teams and individual officers. This could be done, for example, by dip-sampling supervisors' entries on stop and search records, and quality assuring the monitoring and proactive supervision they have carried out. Such action should help ensure that they are taking ownership for stop and search at a more strategic level and that they are providing appropriate oversight, support and challenge. Senior officers should focus on issues of greatest community concern, eg, stops involving children, vulnerable people, and individuals from Black, Asian and minority ethnic groups.

Senior officers are responsible for ensuring that officers and supervisors have the appropriate knowledge, attitude and skills for exercising their powers to stop and search. This should include ensuring that development opportunities are available, and that stop and search training is undertaken by all officers across the force who use stop and search powers, as well as their supervisors. Completion levels of any stop and search training should be monitored. Force training should comply with College of Policing national training standards and be based on the best available evidence. Senior officers should also consider what additional action may be required at a force level to support the training, in order to maximise its impact.

It is important for senior leaders to make clear to staff the force position on conducting searches based solely on the smell of cannabis and to monitor the extent to which this guidance is adhered to. It is unlikely that possession of cannabis will feature as part of a force control strategy or be a priority, but it is accepted that drug use and supply are prevalent in some organised crime groups (OCGs). How leaders direct their staff in the use of this power to deal with cannabis possession can

have a significant impact on public confidence and legitimacy.

Code A, guidance note 22A, offers guidance on monitoring the use of stop and account, and where a person is detained for search but no search takes place. Although there are no mandatory recording requirements for such encounters, guidance note 22A sets out a discretion for forces to direct officers to record the self-defined ethnicity of persons in such cases, where there are concerns that make it necessary to monitor any local disproportionality in their use. Forces may also decide that officers must record such encounters even where there are no particular local concerns, as a measure of reassurance internally and to local communities. Where a force decides to adopt such a requirement, senior officers should ensure that local guidance is provided, efforts are made to minimise the bureaucracy involved, and records are closely monitored and supervised. They can suspend or re-instate recording of these encounters as appropriate. This APP suggests that forces may wish to consider using a similar approach for encounters involving [section 163 of the RTA](#) and police community support officer (PCSO) powers under the [PRA](#).

Senior officers should ensure that their own decision making around stop and search is based on objective factors. They should consider the consequences of each decision – for example, in terms of its impact on crime and local communities. Where, for example, a force requires senior officer authorisation for the deployment of passive drugs dogs and knife arches as part of high-profile stop and search operation, that officer should ensure that any authorisation granted is backed up by intelligence relevant to the likelihood of finding what is being searched for, and that it is not being used merely as a tactic. Officers should be fully briefed on that intelligence and how it may contribute to forming reasonable grounds for suspicion. Senior officers should ensure that processes are in place to capture and review any lessons learned.

Specifically in relation to section 60, Code A states that it is the responsibility of the senior officer granting the authorisation to ensure that its purpose is clearly articulated and communicated to officers. This should include briefing officers on the intelligence that underpins the authorisation.

Comprehensive data from stop and search records must be compiled at force, area and local level. This data must be compiled in a way that allows analysis to be carried out for identifying trends and patterns at an area, team and officer level.

Under BUSSS, forces are expected to record and publish a broader range of outcomes, not just arrest. They are also expected to show whether the object of the stop and search is connected to

the outcome.

Forces should make the data available to the public on force websites and on [www.police.uk](http://www.police.uk)

For further information see:

- [Annual Data Requirement from police forces in England and Wales – 2016/17](#).
- Home Office. (2015). [User Guide to Police Powers and Procedures Statistics](#).

## Community oversight

There are two aspects to community oversight in the context of stop and search:

- community engagement – informing communities about stop and search, listening to their views (however challenging they may be), and taking those views into account
- independent scrutiny – opening stop and search practices up to communities for close examination, with a view to them providing constructive oversight, dialogue and challenge

Community oversight can provide opportunities for the police to:

- understand communities' concerns and take steps, where appropriate, to improve policies, procedures and practices
- help ensure that people understand police powers and how they are used
- increase the legitimacy of stop and search, and public trust in the police

## Community engagement

The police are legally required to engage with local communities, though these requirements do not specifically relate to stop and search. Under [section 34 of the Police Reform and Social Responsibility Act 2011](#) (PRSR 2011), chief officers must make arrangements in each [neighbourhood](#) to:

- obtain the views of the public on crime and disorder in the local area
- provide local information about crime and policing
- hold regular public meetings

In addition, police and crime commissioners (PCCs) or their equivalents must, under section 96 of the Police Act 1996 as amended by [section 14](#) of the PRSR 2011, make arrangements for

obtaining the views of communities in particular circumstances (for example, before issuing a police and crime plan) and, under [section 17](#), have regard to the views of people in their areas on policing, when carrying out their functions.

The evidence highlights the following as important aspects of community engagement in policing, and should be considered by the police when planning engagement activities with local communities on stop and search or in general:

- demonstrating an organisational commitment to engagement, and valuing the input of communities
- using engagement to establish a two-way dialogue between police and communities
- being clear and open about the specific purpose of engagement, and why use of particular engagement methods is appropriate
- carrying out a community mapping exercise to identify the communities in a local area, including those people most likely to be affected by stop and search and by the crime types targeted by stop and search
- working with partners and stakeholders to understand what arrangements and opportunities already exist for engagement
- involving communities in the planning of engagement activities, and sharing ownership of the process with them
- taking a flexible approach, which will involve tailoring the timings, locations and methods of engagement to suit the needs and preferences of different people
- using proactive methods of engagement – which involve the police going to communities – as they are likely to reach a broader cross-section of a community than more traditional, passive methods
- understanding why some communities may be unwilling or unable to engage with the police (for example, a lack of trust or capacity rather than interest) and not underestimating the effect of poor police-community relations
- playing an active role in overcoming any barriers to engagement, including sustained efforts to gain community trust and secure public cooperation, such as:
  - using more informal methods of engagement (at least initially)
  - being fair and respectful during police-public contacts

- being markedly more visible in a local area through targeted deployments or the provision of information via social media
- demonstrably tackling long-standing community concerns about crime and how it has been policed
- trying different approaches to engagement, if people start to become disengaged

In addition, community engagement provides an opportunity for the police to be transparent about how it gathers and processes people's data in respect of stop and search, about which people have a [\*\*right to be informed\*\*](#) under the General Data Protection Regulation (GDPR).

Specifically in respect of [\*\*section 60 of the Criminal Justice and Public Order Act \(CJPOA\) 1994\*\*](#), forces should be proactive in:

- engaging communities in advance of an authorisation to assist operational planning and mitigate any community concerns, recognising that doing so may only be practicable with some planned authorisations because of the immediacy of the risk in other, more dynamic, operational situations
- publicising details (for example, via social media, police A-boards and key individual networks) where and when authorisations have been made, clearly and as soon as practicable, to inform the public, provide reassurance and maximise any deterrence effect
- allowing members of the public to observe operations where 'no suspicion' searches have been authorised
- engaging communities after an authorisation to mitigate any community concerns and report back the operational outcomes of authorisations and other relevant information (eg, disproportionality rates and complaints received)

## Community scrutiny

[\*\*Code A of the Police and Criminal Evidence Act \(PACE\) 1984\*\*](#) at paragraph 5.4 requires forces – in consultation with their PCCs or equivalents – to make arrangements for search records to be scrutinised by community representatives and to explain use of powers at local level. In addition, where there is a legitimate need and appropriate safeguards are in place, forces may decide to disclose other available information relating to stop and search (for example, the time and location of operations, complaints, statistics, training materials, body-worn video footage, and plans and strategies) to community representatives for scrutiny purposes.

Forces typically use scrutiny panels to fulfil this requirement, though specific arrangements can and do vary depending on available resources and the scope for them to be integrated with other community engagement activities and wider scrutiny processes. In some force areas, PCCs or equivalents have helped facilitate scrutiny arrangements (eg, recruiting panel members to help ensure their independence). Whatever arrangements forces and/or PCCs or equivalents adopt, independent scrutiny should:

- enable effective auditable community oversight
- allow dialogue and challenge
- inform changes to local policies, procedures and practices (where appropriate)

Forces and/or PCCs or equivalents will need to consider whether their scrutiny arrangements are proportionate to the scale, strength and nature of communities' concerns about stop and search, as well as about crime, bearing in mind that different communities may have differing perspectives and that their concerns:

- may not relate to how frequently police powers are used
- could be multifaceted (for example, about race disproportionality, strength of grounds, effectiveness and quality of interactions)
- are unlikely to be raised through engagement or result in people making complaints because of a lack of trust of the police and/or wider system

Forces and/or PCCs or equivalents will only have effective engagement once they know the nature of communities' concerns and assess whether scrutiny is proportionate.

The following principles – framed specifically in terms of force scrutiny panels – can be applied to any independent scrutiny process introduced by forces and/or their PCCs or equivalents for stop and search (for example, independent advisory groups).

- **Representative** – Forces should consider the extent to which the composition of scrutiny panels reflects the diversity of their local areas (for example, age, ethnicity, gender and social class) and be proactive in ensuring sufficient representation from socially marginalised groups and those most affected by stop and search (for example, young people, people from black and minority ethnic groups). The process for recruiting members to the panel should be transparent. If there

are gaps in panel membership, it may be appropriate for forces to use other engagement methods to ensure that the views of under-represented groups are heard and taken into account. Under the [public sector equality duty \(section 149 of the Equality Act 2010\)](#), forces are required to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people. Forces may need to:

- carry out community mapping exercises
  - target the recruitment of panel members from under-represented groups
  - monitor attendance levels at panel meetings
  - vary the timing and location of meetings to make it easier for people from underrepresented groups to attend
  - consider alternatives to formal meetings if they discourage attendance (for example, social media, visits to focal points for different communities)
  - take steps to overcome any barriers to engagement
  - understand the reasons why panel members stop attending
  - ensure that the results of other community engagement activities inform the work of scrutiny panels
- **Independent** – Scrutiny panels should ordinarily be chaired by someone independent of the police (someone from the community rather than a serving or former police officer or staff member), unless there is a good reason why this is not possible. The process for appointing chairs should be transparent, as should their period of tenure. The membership of scrutiny panels will need to be renewed periodically to help ensure that they maintain a critical distance from the police. Any potential conflicts of interest that could lead to the independence of panels being brought into question should also be registered and, if necessary, mitigated.
  - **Purposeful** – Scrutiny panels should have clear aims, responsibilities and terms of reference. Scrutiny should ordinarily focus on the issues that are of greatest concern to local communities (for example, searches of children or vulnerable people, race disproportionality, grounds or authorisations for searches, the quality of interactions and effectiveness). It should also be clear how scrutiny panels relate to any other community oversight groups convened by the force and/or its PCC or equivalent and the wider governance processes around stop and search.
  - **Supported** – Forces should provide support to scrutiny panels so they have the capacity, capability and confidence to fulfil their stated aims. This should ordinarily include the provision of relevant information (for example, statistical data, supporting explanatory notes and search

records), as well as lay observation opportunities (for example, of operations likely to involve stop and search or where 'no suspicion' searches have been authorised). Forces may also decide it is necessary to provide additional support to chairs and panel members (for example, training on the law, how to interpret data and the complaints process, and administrative support) for panels to function properly. Forces may also need to make reasonable adjustments for members to participate fully.

- **Influential** – Panel members can reasonably expect to effect change in forces' policies, procedures and practices on stop and search by engaging in constructive oversight, dialogue and challenge. This may be made more likely by the involvement of senior police leaders in the work of scrutiny panels. To ensure community ownership of the scrutiny process, members should be able to exert influence over the agenda. They should also feel able to discuss with forces what information they would like to scrutinise and how that information is selected and presented. Forces should consider all reasonable requests, and provide an explanation if they are unable to fulfil any (for example, on cost or legal grounds). Forces should allow panel members to voice any concerns about stop and search, which should include an agreed policy and process (contained within the terms of reference) for raising matters of concern relating to potential misconduct with professional standards departments for assessment by the appropriate authority. The views of panel members and any recommended actions should be recorded in an auditable way (for example, meeting minutes). The police should also establish mechanisms for reporting back to the panel any action they take in response, and recording the results of these actions. Where no action is taken, forces should explain why.
- **Transparent** – Forces should be open with the wider general public about the purpose, membership and work of scrutiny panels, and be able to provide a well-evidenced explanation for the scrutiny arrangements that they have adopted (for example, their nature and extent). This could involve, for example, publishing information about the panels on forces' websites (for example, terms of reference, minutes), holding some panel meetings in public (with the necessary safeguards) and communicating the work of the panel to those most likely to be searched.
- **Confidential** – Scrutiny panels must operate in accordance with the GDPR and ensure that personal data relating to police officers and members of the public remain secure. Forces may share personal data with scrutiny panels if it is necessary and proportionate for them to do so to fulfil a legal requirement, provided that appropriate safeguards are in place. Forces are advised to carry out a [data protection impact assessment \(DPIA\)](#) before doing so. In some circumstances, it may be appropriate for forces to agree data sharing protocols with scrutiny panels, ask

members to sign non-disclosure agreements and/or share anonymised stop and search records. Where forces and PCCs or equivalents both play a role in the management of scrutiny arrangements, their responsibilities in respect of the processing of personal data should be made clear.

### **Scrutiny of body-worn video camera footage**

Forces that have introduced BWV cameras should have policies for their use consistent with guidance from the [Information Commissioner's Office](#). These policies should specify whether the recording of stop and search encounters by officers is required (and, if so, under what circumstances and any exemptions), as well as how the resulting footage is to be processed.

It is for forces to decide whether to allow scrutiny panels to review footage of individual stop and search encounters (where such footage is available). Such footage may have particular value as the only realistic option for scrutiny panels to review how stop and search is carried out by officers. Special care is required by forces when sharing this footage because of the risks to individuals whose data is being disclosed. Forces must only disclose specific pieces of footage if they have a legitimate basis for doing so and put appropriate safeguards in place.

If forces wish to share BWV footage with scrutiny panels, they are advised to liaise with their data protection officers – prior to sharing any data – to:

- carry out DPIAs
- ensure that related policies are in place that set out, for example, the reasons when it would be (in)appropriate to share footage, the risks involved and the safeguards to help mitigate them
- develop procedures consistent with the DPIA and related policies

When forces carry out their DPIAs and/or develop policies and procedures, they should consider the following questions prior to sharing any footage and document their responses as appropriate.

- What is the purpose of, and justification for, sharing the footage?
- What are the likely costs and benefits of sharing the footage?
- With whom is the footage to be shared and does it raise any particular sensitivities (eg, because of the age or the person viewing it)?

- Which specific footage is to be shared, why, and does it raise any particular sensitivities (for example, because of the vulnerability of those involved)?
- What actions are to be taken to prevent, or in reaction, to:
  - panel members reviewing footage involving someone they know or recognise
  - unauthorised access to the footage (for example, use of secure rooms, limiting the number of people who view the footage)
  - personal data and other sensitive information being shared outside the scrutiny group (for example, restricting note-taking and the use of recording devices, asking panel members to sign non-disclosure agreements)
  - the unnecessary intrusion into people's privacy (including of the people searched, police officers and other parties)
  - secondary trauma resulting from panel members viewing the footage

### **Lay observation**

**BUSSS** requires participating forces to provide opportunities for members of the public to accompany police officers on patrol. Forces should also consider allowing members of the public to observe operations during which stop and search powers are expected to be used or when 'no suspicion' searches are to be authorised (but only when it is safe for them to do so). While there may be few opportunities for them to observe stop and search being practised on patrol, lay observation provides an opportunity for forces to increase their transparency, improve public understanding of policing and identify areas for improvement. Forces should seek to mitigate any risks associated with local vetting policies restricting access to lay observation opportunities (for example, among those most likely to be affected by stop and search).

Forces should proactively seek feedback from members of the public who participate in lay observation. Any feedback should ordinarily be shared with scrutiny panels for them to consider. Each force should complete their own risk assessment for any person on patrol under the lay observation scheme. The scheme should be open to young people subject to risk assessment, which may restrict the nature of the activities in which they can participate.

### **Complaints**

The BUSSS requires participating forces to have community complaints trigger policies. These policies should set out the volume or nature of complaints about stop and search at which the police must explain its use of stop and search powers to scrutiny groups.

Forces are required to involve local communities (for example, scrutiny panel members) in the development of their policies, such as discussing with them the volume or nature of complaints that would be an appropriate trigger for the process. Where complaints are particularly low or forces wish to achieve a maximum level of transparency, they may consider treating every complaint as a trigger for police explanation and community scrutiny.

Forces should develop and publish a policy that:

- ensures that individuals who are stopped and searched are made aware of the complaints trigger, and how and where to complain (for example, by including the relevant information on stop and search receipts)
- sets out a straightforward and accessible complaints process
- introduces a threshold above which the police must explain their use of stop and search, primarily to local community groups responsible for scrutinising the use of stop and search

For the complaints trigger to be effective, forces may need to ensure that complaints resulting from stop and search are identifiable on their systems.

Some people may find it difficult or may be reluctant to engage with the police directly for a variety of reasons. In recognition of this, forces should consider identifying and raising awareness (for example, on their websites) of groups or organisations working locally who can provide support, advice or advocacy to people wanting to complain.

## References

- [College authorised professional practice on stop and search](#)
- [College authorised professional practice on community engagement](#)
- [College guidelines on neighbourhood policing](#)
- [College rapid evidence assessment on neighbourhood policing](#)
- [College rapid evidence assessment on community engagement in policing](#)
- [Criminal Justice Alliance briefing on scrutiny panels in stop and search](#)
- [HMIC thematic inspection report on stop and search 2013](#)

- [HMIC thematic inspection report on stop and search 2015](#)
- [HMICFRS PEEL police legitimacy inspection 2017](#)
- [National statistics on police powers and procedures](#)
- [Police and Criminal Evidence \(PACE\) Act 1984 – Code A](#)

## Tags

Stop and search