

Quick reference guide: legal application – applying the power lawfully

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Most proportionate

Act on a **sliding scale** corresponding to the aim desired and work through your options. Your actions must be proportionate to your aim, so the extent of the search must always be the minimum with which the aim can be achieved.

Talk to the person or persons. The search might not be necessary, even if you have a power to search. Your initial suspicions might be dispelled or the person might hand over the item voluntarily if you ask them.

Most proportionate – the decision to search

The decision to search must be objectively proportionate to the circumstances.

Where you have a legal power to search a particular person – for example, you have objectively reasonable grounds or there is a section 60 authorisation in force – the decision to search that person is likely to be proportionate.

You can search a group if that would be a proportionate response to the facts and the nature of the suspicion held. What would be proportionate depends on the circumstances.

Think about what the reasonable response of a police officer might be, bearing in mind:

- the items you are looking for and how many you suspect are being carried
- whether the items pose a significant risk
- whether there is information or intelligence giving a reasonable anticipation of significant harm
- how many people you need to search

- whether you can take steps to reduce the number of people needing to be searched

Most proportionate – detention for the purpose of search

- You should inform the person at the outset that they are being detained for the purposes of a search, to activate the power to use reasonable force.
- Your starting point should always be to seek cooperation from the person, and a forcible search should only be considered necessary where the person resists or makes it clear they will not cooperate.
- Any force you use must be reasonable in the circumstances to prevent crime.
- You should not routinely use handcuffs, but consider whether they may be necessary on a case-by-case basis.
- You should not keep the person detained for any longer than you reasonably need to finish the search. Once the search is completed you cannot, for example, keep them longer to check personal details they have provided voluntarily.

Most proportionate – the search

The extent and thoroughness of the search must not be excessive.

- For search powers requiring reasonable grounds, the extent of the search depends on the nature of those grounds and the item searched for.
- For no-suspicion search powers, there is no specific restriction on the nature of the search but it must be reasonable, bearing in mind the items being looked for.

You may be acting on information or intelligence that suggests from the outset that a more intrusive search may be necessary, but you should still make your own assessment of the circumstances at the time of searching.

Think about:

- the nature of the item you suspect you will find
- where the information or intelligence indicates the item is or may be located
- where it would be reasonable to look for it, thinking about its size and shape
- the most proportionate method you can use to establish if the person is in possession of the item

You must consider each of your **search options** and ask yourself in each case if it is sufficient to achieve your aim or if a more intrusive method of search is necessary.

Tags

Stop and search