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BEST USE OF STOP & SEARCH SCHEME

Summary

The Best Use of Stop and Search Scheme was announced by the Home Secretary in her statement to Parliament on 30th April 2014.

The principal aims of the Scheme are to achieve greater transparency, community involvement in the use of stop and search powers and to support a more intelligence-led approach, leading to better outcomes, for example, an increase in the stop and search to positive outcome ratio.

The features of the Scheme are:

- Data Recording – forces will record the broader range of stop and search outcomes e.g. arrests, cautions, penalty notices for disorder and all other disposal types. Forces will also show the link, or lack of one, between the object of the search and its outcome.
- Lay observation policies – providing the opportunity for members of the local community to accompany police officers on patrol using stop and search.
- Stop and search complaints 'community trigger' – a local complaint policy requiring the police to explain to local community scrutiny groups how the powers are being used where there is a large volume of complaints.
- Reducing section 60 'no-suspicion' stop and searches by –
 - raising the level of authorisation to senior officer (above the rank of chief superintendent);
 - ensuring that section 60 stop and search is only used where it is deemed necessary – and making this clear to the public;
 - in anticipation of serious violence, the authorising officer must reasonably believe that an incident involving serious violence will take place rather than may;
 - limiting the duration of initial authorisations to no more than 15 hours (down from 24); and
 - communicating to local communities when there is a section 60 authorisation in advance (where practicable) and afterwards, so that the public is kept informed of the purpose and success of the operation.

By adopting the Scheme, forces will use stop and search strategically, which will improve public confidence and trust.

Best Use of Stop and Search Scheme – in detail

1. Data recording

- 1.1. Currently national data, published in the annual Police Powers and Procedures publication, provides information on the number of stop and searches and the proportion that result in an arrest. The latest statistics for 2012/13 showed that of the 1 million stop and searches under section 1 of the Police and Criminal Evidence Act 1984, only 10% led to an arrest.
- 1.2. This figure does not give the whole picture concerning the effectiveness of stop and search. Forces adopting the Scheme will therefore provide the public with a richer picture of how their use of stop and search powers is enabling them to reduce crime rates, and how well individual officers are using their 'reasonable suspicion powers' to target suspects with prohibited items in their possession.
- 1.3. A key component of the Scheme, therefore, is the requirement on forces to record and publish a broader range of outcomes which could follow from a stop and search encounter.

Forces participating in the Scheme will expand their data requirements and return information where stop and search has resulted in any of the following outcomes:

- i. Arrest (as is currently required);
- ii. Summons / charged by post;
- iii. Caution (simple or conditional);
- iv. Khat or Cannabis Warning;
- v. Penalty Notice for Disorder;
- vi. Community resolution; or
- vii. A no further action disposal.

Information will be returned through the Home Office Annual Data Requirement.¹

- 1.4. The measure of the success of stop and search is not necessarily a 'hit', or positive outcome, as there may be occasions where the outcome of a stop and search is unconnected to the reasonable grounds for suspicion. Such an outcome is likely to represent a chance detection rather than professional judgement and the use of reasonable grounds by the officer in question. It is for this reason that it is important that the public has access to this information to assess how effectively the police are using their powers. Data must therefore be made available which show whether the object of the stop and search is connected to the outcome; this will encourage accountability in the police use of these powers.

¹ Only one outcome should be recorded for each stop and search encounter. Where one of the above outcomes follows an arrest, the recorded outcome will be the arrest and not any further action through out of court disposal, prosecution or otherwise. Recording both arrest and other outcome for the same stop and search will distort the figures which are concerned with immediate stop and search outcomes.

2. Lay observation policies

- 2.1. In order to improve public understanding of the police and contribute to best practice, forces must be open and accessible. It is important for the public, particularly young people and people from Black and Minority Ethnic communities, to be able to see the police conducting their work in a professional way. Equally, it is also important for the police to understand the communities that they are serving – as this enables more effective policing through police and community cooperation and exemplifies ‘policing by consent’.
- 2.2. By introducing ‘lay observation’, a process of two-way learning can take place, bringing the police closer to the public. A core element of the Scheme is the requirement that participating forces will provide opportunities for members of the public to accompany police officers on patrol when they might deploy stop and search powers.

Forces participating in the Scheme will develop lay observation policies which adhere to the following principles:²

- members of the public are provided with the opportunity to see stop and search in action;
- the police have the opportunity to demonstrate their use of stop and search;
- the public has the opportunity to provide feedback to the police based on their observations; and
- the need to ensure the safety of lay observers is appropriately taken into account.

- 2.3. We recognise that the stop and search rate varies between forces, and that it is difficult to predict when a stop and search encounter might take place. Some forces already facilitate public observation through ‘Ride Along’ schemes, for example. It is open to forces to meet this requirement through such schemes. By extension, where forces do not have public observation policies, they may wish to apply a policy with a broader scope.

² Individual police forces will develop their own local policies to ensure that the use of lay observers is compatible with Article 8 of the ECHR (the right to respect for private life) and the Data Protection Act 1998.

3. Community complaints trigger

- 3.1. The community complaints trigger will be the requirement on forces to signpost the appropriate mechanism for members of the community to raise any concerns or complaints that they have with the way that a stop and search has been carried out by their police force.
- 3.2. Forces participating in the Scheme have local discretion to determine the most appropriate way to establish the community complaints trigger; however, consideration should be given to including information on the complaints trigger either on the receipt provided to all individuals following a stop and search or verbally by officers (or both). Importantly, forces will publish their policy to ensure transparency in the process.
- 3.3. The nature of the trigger will be quantitative and / or qualitative and, whilst there will be variation between forces, each force must ensure that the local community (often through Independent Advisory Groups or Scrutiny Boards) is provided with the opportunity to influence how it is set up and how many complaints, and of what nature, would set off the trigger.
- 3.4. In forces where complaints are particularly low, forces should consider treating every complaint as a 'trigger' – each requiring explanation and scrutiny by community groups.

Forces participating in the Scheme will develop a compliant policy which:

- ensures individuals stopped and searched are made aware of where to complain;
- introduce a threshold above which the police are compelled to explain their use of stop and search; and
- that explanation will be given, primarily, to local community groups responsible for scrutinising the use of stop and search.

4. Section 60 Criminal Justice and Public Order Act 1994 stop and search

- 4.1. Section 60 stop and search powers are among the most controversial of all such powers by virtue of the fact that individual police officers are not required to have any reasonable grounds for suspicion.
- 4.2. Once a section 60 authorisation is in place, officers do not need to have suspicions on a particular individual prior to stopping them; though it is a requirement of PACE Code A for an officer to explain to an individual who has been stopped that a section 60 authorisation is in place. This can lead to a large number of searches which result in community and police tensions. The Scheme introduces a set of requirements that, when combined, will ensure that participating forces improve their use of this type of stops.

Forces participating in the Scheme will revise their use of section 60 stop and search powers so that all stops and searches conducted under this section will adhere to the following conditions:

- The 1994 Act currently provides for an officer of at least the rank of inspector to give a section 60 authorisation in a particular area for a specified period time. Forces in the Scheme will **raise the level of authorisation to a senior officer**.³
- Although the word “necessary” does not appear in section 60(1), the effect of Article 8 of ECHR is that necessity remains relevant to each decision as to whether an authorisation is justified. Any authorisation made under section 60 must be made only when the officer believes it is necessary. In practice, in addition to expediency, which is explicit in the 1994 Act, the authorising officer must also have considered the authorisation necessary to prevent serious violence or to find dangerous instruments or weapons after an incident involving serious violence, or to apprehend persons carrying weapons. **This applies to all forces using this power regardless of whether they are participating in the Scheme or not.**
- Informed by intelligence, senior officers in participatory forces must have a higher degree of certainty by reasonably believing that incidents involving serious violence **will** take place rather than it being a possibility. Any judgment about the credibility of the intelligence will be a matter for the senior officer.
- The law provides for initial authorisations to be made for up to 24 hours (extendable for a further 24 hours). Forces participating in the Scheme will **limit the maximum duration of the initial authorisation to 15 hours**. For an extension up to 24 hours, an officer of senior rank will authorise any additional extensions.⁴
- **Participating forces must communicate with the public in the areas where a section 60 authorisation is to be put in place in advance (where practicable) and afterwards.** The public need to be informed of the purpose and outcomes of each section 60 operation. However, it is a matter of local discretion to participating forces as to how they communicate this information.

³ In all cases, a ‘senior officer’ for the purposes of the Scheme has the meaning of at least an Assistant Chief Constable, Commander of the Metropolitan Police, or Commander of the City of London Police or above

⁴ An extension made beyond 15 hours will not exceed nine hours, which will take the authorisation up to the statutory 24 hours mark. An extension beyond 24 hours will not exceed 15 hours, as applies to the first authorisation.

5. Adherence to the Scheme

- 5.1 Forces signed up to the Scheme are expected to adhere to all its components, subject to exceptional circumstances. However, nothing in the Scheme is binding in law; statute and case law on stop and search therefore remain unaffected.
- 5.2 All departures from the Scheme must be made public. The Home Secretary reserves the right to withdraw membership of the Scheme where there is evidence that a force is not in compliance with its terms.

Forces participating in the Scheme will make public all instances where they have departed from the requirements of the Scheme and explain the reason for why this occurred.

6. Race and Diversity Monitoring

- 6.1 To comply with the public sector equality duty in section 149 of the Equality Act 2010, whilst designing and implementing any new policies as part of the Best Use of Stop and Search Scheme, forces must consider the impact on all individuals. This duty requires that forces have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities.
- 6.2 In addition, as an important element of the Scheme is to encourage a better relationship between the police and the public, participating forces need to ensure that they are actively monitoring their use of stop and search powers.

Forces participating in the Scheme will ensure that the impact of the Best Use of Stop and Search Scheme is monitored, particularly as it relates to individuals from Black and Minority Ethnic groups and young people.

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