Home Office

EQUALITY IMPACT ASSESSMENT

RELAXATION OF SECTION 60 CONDITIONS IN THE BEST USE OF STOP AND SEARCH SCHEME

1. Context

It is priority for the government to tackle the recent rises in serious violence. The use of stop and search, when proportionate, lawful, and intelligence-led, can be an important tool as part of a broader approach in allowing the police to disrupt and reduce violent crime.
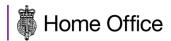
Section 60 of Criminal Justice and Public Order Act 1994 (S60) enables officers to conduct "no-suspicion" stop and searches for dangerous instruments or offensive weapons in a specified area in anticipation of violence.

Authorisation to use the power for 24 hours within a specified locality can be granted by an officer of the rank of inspector or above. This can be extended for a further 24 hours upon the authorisation of an officer of the rank of superintendent or above.

As part of a broader drive to reduce the number of illegal searches, address racial disparities and increase the effectiveness of stop and search, the voluntary Best Use of Stop and Search Scheme (BUSSS) tightened requirements around the use of s60 by:

- Raising the level of authorisation for the initiation and extension of s60 powers to **senior officer**;

- Raising the **level of suspicion** from believing that, in the anticipation of serious violence, incidents involving serious violence **will** take place rather than **may;**

- ensuring that section 60 stop and search is only used where it is deemed **necessary** – and making this clear to the public;

- **limiting the duration** of initial authorisations to no more than 15 hours (down from 24); and limiting the duration of subsequent extensions to, first, 9 hours and, second, 15 hours to a total of 39 hours (down from 48); and

- **communicating to local communities** when there is a s60 authorisation in advance (where practicable) and afterwards, so that the public is kept informed of the purpose and success of the operation.

BUSSS was introduced in August 2014 amidst an already falling number of s60 searches. In 2008/09 150,000 S60 searches took place. In 2016/17, that number had fallen to 631. In the last financial year (2017/18) 2,501 searches took place.

This decrease in use has been matched closely by an increase in arrest rates. The arrest rate was 2.5% when the recorded number of S60 searches was at its highest (2009/10), compared to 11.4% when searches were at their lowest (2016/17). Last year's increase in the use of S60 searches was accompanied by a decrease of the arrest rate to 8.1% (2017/18).

Forces report using S60 in order to prevent serious violence at major/public events (carnivals, football matches, protests), or in the immediate aftermath of serious violence (e.g. stabbings) in order to find offending weapons.

2. Objective of this policy

It is the government's objective to reverse the recent rise in violent crime, including knife crime. Stop and search can be a vital policing tool when used correctly. In order to enable the police to feel confident, trusted and supported in its lawful application, and reduce bureaucracy around its use, the Home Secretary has agreed proposals to roll back the additional controls on the use of Section 60 as set out in BUSSS. The table below summarises the changes.
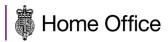
Legislation (1994)	BUSSS (2014)
If a police officer of or above the rank of **inspector**…	If a police officer of the rank of **senior officer**… [authorisation seniority increased]
… reasonably believes that incidents involving serious violence **may** take place	… reasonably believes that incidents involving serious violence **will** take place [grounds made stricter]
he may give an authorisation that the powers conferred by this section are to be exercisable at any place within that locality for a specified period not exceeding **24 hours**	he may give an authorisation that the powers conferred by this section are to be exercisable at any place within that locality for a specified period not exceeding **15 hours** [timing reduced]
If it appears to an officer of or above the rank of **superintendent** that it is expedient to do so… he may direct that the authorisation shall continue in being for a further **24 hours.**	If it appears to an officer of **senior officer** [authorisation seniority increased] that it is expedient to do so… he may direct that the authorisation shall continue in being for a further **24 hours** [no change, overall time available decreased from 48 hours to 39].

We expect this policy to result in quicker, and potentially a greater number of authorisations- aiding the police in their work against serious crime.

3. Equality impact assessment- purpose and document structure

Section 149 of the Equality Act 2010 requires public bodies, in the exercise of their functions, to have due regard to the need to:

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;

- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and

- foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

In order to assess the impact of this policy on people from protected characteristics, in line with the departments public sector equality duty, this document therefore conducts assessments on:

- **The current use of s60 powers**, against the criteria outlined above in relation to due regard; and

- **The potential impact of our proposed policy change** on people with protected characteristics.

Analysis is primarily restricted to impact on those from black or minority ethnic backgrounds owing to issues surrounding data availability for other protected characteristics.
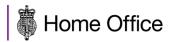
At present, robust national data are not collected on the use and impact of stop and search on other protected characteristics (disability, gender, age)- and as such the impact on these groups cannot be fully considered. Police.uk data on stop and search includes information on gender and age. However, this data set is not considered to be of sufficient quality to be used in this assessment as it is not quality assured and not all forces submit data. We have, therefore, where possible focused on official statistics, such as the Home Office's Police Powers and Procedures data.

4. Context: S60 in year ending March 2018

In the year ending March 2018, police in England and Wales carried out 2,501 stops and searches under section 60. This is quadruple the number of searches under this power in the year ending March 2017 (from 631 to 2,501) but follows a large downward trend since a peak of around 150,000 searches in the year ending March 2009. This increase was the first year on year increase in 9 years and was driven by the Metropolitan Police Service who carried out 1,836 searches - six times the number they carried out in 2016/17. Although not official statistics, the MPS are reporting a dramatic increase in the number of searches under S60 powers, from 1,839 in 2017/18 to 9599 in 2018/19.

Forces report that S60s are used primarily at major public events and gatherings, such as the Notting Hill Carnival. As such, stops under S60 made up less than 1% of all stop and searches carried out in 2017/18 (282,248 in total).

Use of S60 is also concentrated in small number of forces. Only 18 of the 44 forces in England and Wales (including BTP) conducted at least 1 stop and search under S60 last year. The Metropolitan Police Service account for the majority (73%) of all S60 searches in England and Wales in the year ending March 2018, followed by the British Transport Police (10%), Merseyside Police (6%) and West Midlands

Police (4%). In total 140 arrests took place as a result of S60 authorisations, of which 49 were related to the possession of weapons (i.e. the basis on which searches under s60 are authorised).

4. Equality impact assessment - current use of s60

This section assesses the use of current s60 powers against the relevant issues towards which the Public-Sector Equality Duty requires public bodies to exercise "due regard".

a) Elimination of discrimination, harassment, victimisation

Based on our assessment of the evidence, available data points towards a disparity in the use of sS0s on individuals from Black and Minority Ethnic (BAME) communities, especially black men compared with white men.

It is possible that this disparity is at least in part a result of discrimination/stereotyping on the part of officers and forces carrying out searches under S60.

Disparities in stop and search

BAME and Black individuals in 2017/18 were four and nine and a half times more likely to be searched than white individuals. BAME individuals have also been found to be more likely to be dissatisfied than white individuals with the conduct of searches, according to analysis of CSEW data 2009-11. The number of BAME individuals searched has fallen dramatically between 2010 to 2018 (Searches of BME from 431k to 98k.) but disparities have risen as the number of white people searched has fallen more dramatically.

Disparities in s60 stop and searches

National data on s60 searches consistently shows that BAME individuals, and black individuals especially, are more likely to be the subject of s60 searches than white individuals. The likelihood statistics are calculated by comparing the ethnicity of those searched, based on their self-defined ethnicity, with the characteristics of the population as a whole, based on data taken from 2011 Census. In 2017/18, BAME individuals were just under 14 times more likely to be stopped and searched under s60 than white individuals.

Table 1 Likelihood of being stopped and searched under s60, by self-defined ethnic group, compared with those from White ethnic groups, England and Wales, 2009/10 – 2017/18[1]

Year	Black	Asian	Chinese or Other	Mixed	All BME
2009/10	21.3	5.0	1.5	4.3	**8.3**
2010/11	30.8	8.0	2.7	5.6	**12.4**
2011/12	26.7	6.1	2.4	5.4	**10.4**
2012/13	22.7	3.1	1.8	4.1	**7.8**
2013/14	15.8	2.5	1.4	4.0	**5.7**

Year	Black	Asian	Chinese or Other	Mixed	All BME
2014/15	6.7	1.6	1.0	2.3	**2.8**
2015/16	9.9	2.0	1.0	1.2	**3.7**
2016/17	14.1	1.0	1.1	2.0	**4.3**
2017/18	39.9	5.5	2.9	8.1	**13.8**

Notes:
1. Based on the total population in England and Wales.
Source: Police Powers and Procedures, year ending March 2018 and previous years.
https://www.gov.uk/government/statistics/police-powers-and-procedures-england-and-wales-year-ending-31-march-2018

Excluding searches where the ethnicity of the person being searched was not stated (485 searches) and vehicle only searches (where ethnicity data are not collected), 69% of searches under s60 in 2017/18 were of people from BAME backgrounds. Most of s60 searches were carried out by the Metropolitan Police (73%). Excluding the MPS and British Transport Police, 26% of s60 searches, where ethnicity was recorded, were of BAME individuals.

Looking solely at the data for the MPS also shows those from BAME backgrounds are more likely to be stopped and searched under s60 than those from white backgrounds:

Table 2: Likelihood of being stopped and searched under s60, by self-defined ethnic group, compared with those from White ethnic groups, Metropolitan police area, 2009/10 – 2017/18[1]

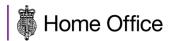| Year	Black	Asian	Chinese or Other	Mixed	All BME
2009/10	6.7	2.5	0.6	2.1	**3.6**
2010/11	6.9	2.9	0.8	2.0	**3.9**
2011/12	6.1	2.2	0.7	2.0	**3.3**
2012/13	10.9	1.8	1.0	2.8	**4.8**
2013/14	8.3	1.8	0.9	2.8	**4.0**
2014/15	15.8	2.2	1.7	5.4	**7.1**
2015/16	19.0	2.4	2.5	3.4	**8.0**
2016/17	4.3	0.4	0.3	1.1	**1.8**
2017/18	11.9	2.7	1.0	4.1	**5.7**

Notes:
1. Based on the residential population in the Metropolitan Police Force Area.
Source: Police Powers and Procedures, year ending March 2018 and previous years.
https://www.gov.uk/government/statistics/police-powers-and-procedures-england-and-wales-year-ending-31-march-2018

Several important caveats exist with both the source data, and the likelihood rates. These need to be considered when drawing inferences from the analysis. Some of these issues are particularly acute in interpreting the data on the likelihood of being stopped and searched under s60, given what is known about the way in which this power is currently used:

- **The concentration in the use of s60s:** Since the large reduction in the use of s60s in the late 2000s, s60 stop and searches tend to be concentrated around major public events (e.g. the Notting Hill Carnival). According to the MPS Stop and Search dashboard, in the year to October 2018, 61% of s60

stops took place in August, the month of the Notting Hill Carnival, while half (52%) of all s60 stops in August 2018 took place in Kensington and Chelsea. The heavy concentration of s60 stops by place and time, and around events involving a very transient population, makes it hard to generate meaningful disparity rates based on the characteristics of resident populations.

- **2011 Census:** Population data are based on the 2011 Census. The true ethnic population and make-up of areas will have changed in the intervening years.

- **Missing ethnicity data:** In recent years, the proportion of s60 searches for which self-described ethnicity is missing data has been increasing. In 2010/11, data on self-reported ethnicity was missing for only 5% of cases. The proportion has steadily increased and in 2017/18, 19% of s60 searches had missing ethnicity data.

- **Age groups:** Younger age groups have higher proportions of people from BAME backgrounds. Since searches tend to be focused on younger age groups - MPS data for all searches show that 15-19 year olds accounts for the highest proportion of searches (data to October 2018) - this is likely to over-estimate the actual size of disparities.

- **Street populations:** Some commentators have argued that the "true" population available for stops and searches is not representative of the general population.

Due to these issues, it is not possible to say that the estimated likelihood ratios given in Table 1 and Table 2 *precisely* describe disparity levels in the use of s60 stop and searches. Nonetheless, the wider evidence indicates that disparity exists in the use of s60.

Possible explanations behind the disparities

A key determination with regards to the variation in likelihood rates is the extent to which disparities can be explained by discriminatory practices - either in the individual treatment of those searched or in the broader use of powers by the police in a way that indirectly targets BAME populations.

(i)   Targeted action against serious violence

One potential explanation behind disparity rates might be that the higher use of s60s reflects police operational decision making. The Serious Violence Strategy noted that, for homicide, individuals from black backgrounds have been found to have higher rates of both victimisation and being principal suspects (see below). Victims and police suspects also often overlap - MPS data showed that of 306 suspects named in 134 MPS homicide investigations in 2017, 72% had previously been a victim of crime, and 26% a victim of knife crime (Serious Violence Strategy, 2018).

The Strategy goes on to note that the evidence on links between serious violence and ethnicity is limited, and once other factors are controlled for, it is not clear from the evidence whether ethnicity is a predictor of violent offending. However, the analysis of homicide suspects and victims only covers the period up to 2015/16, and therefore does not reflect any changes which have taken place alongside the recent increase in homicides.

Table 6: Offences recorded as homicide, rates per million population by victim's and principal suspect's ethnic appearance: combined data for three years, 2013/14 to 2015/16[81]

Ethnicity	Victim		Principal suspect	
	Volumes	Rate per million	Volumes	Rate per million
White	1,207	8	954	7
Black	181	32	232	41
Asian	127	11	113	10
Other	43	7	31	5

Source: Ministry of Justice (2017). Race and the criminal justice system 2016 Chapter 3: Victims tables.
Available at: https://www.gov.uk/government/statistics/race-and-the-criminal-justice-system-2016 [accessed 26/02/2018].

(ii)   Discriminatory behaviour by police officers

Racial disparities in the broader use of stop and search have been identified in the evidence base. Several studies have suggested that these are in part due to discriminatory decision-making within forces. A Home Office research study (2000), which drew on a mix of Home Office statistics, existing literature and bespoke data, concluded that "it is likely that, in at least some cases, discriminatory officer practice plays at least some role in disproportionality."

More recently, HMICFRS (2017) noted that disparities in the "find rate" for drugs between black individuals and white individuals. Analysis of searches involving black people were less likely to result in drugs being found, compared with those involving white people or other ethnic groups. HMICFRS described the finding to be "troubling" and could not be adequately explained by forces. Concerns over racial disparities in find rates have also been raised by the campaign group StopWatch (2018).

StopWatch (2018) have offered up other evidence around discrimination in the use of stop and search. They have argued that in London, in high affluence, low crime boroughs, while overall rates of stop and search are low, they have high rates of racial disparity. At the force level, they note, that as some forces have substantially reduced their use of stop and search - and have seen no increase in disproportionality - others have combined more modest reductions in stop and search with high, and increasing, rates of disproportionality.

It is not possible, therefore, based on existing evidence, to rule out the possibility that discrimination plays some part in explaining variations in the likelihood of being stopped and searched under s60.

(iii)   Broader inequalities

"Racial disparities may be accounted for by wider society racial inequalities, such as BAME communities living in areas of higher crime and deprivation, being more likely to be excluded from school and being less likely to be in full time employment, although the picture can vary amongst different minority ethnic groups e.g. Chinese and Indian individuals have the lowest temporary exclusion rate (Racial Disparity Unit, 2019). One possible explanation is that that the combination of these factors may result in BAME communities being more available in the areas that are more heavily policed and therefore are more likely to be Stopped and Searched or prosecuted for crimes (Waddington et al, 2004)"

(b) advancing equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it

If it is not possible to rule out the existence of some level of discrimination with the use of s60 powers, it is also challenging to assess whether the policy advances equality of opportunity.

BAME individuals are more likely to be victims of homicide than their white counterparts. 32 people per million black individuals are victims of homicide, compared to 8 people per million white individuals (Serious Violence Strategy, 20180. As s60 searches are meant to be used to prevent violence - or reduce the risk of further incidents of violence after an initial violent incident - any successful deterrent effect could be claimed to advance the equality of opportunity.

This would depend on robust evidence that stop and search is effective at reducing crime. UK evidence on the effectiveness of stop and search at reducing crime - by both the College of Policing and the Home Office - suggests that changes in the level of stop and search have, at best, only minimal effects on violent crime, even when measured at the local level.

A study by the College of Policing found a weak but statistically significant effect of stop and search on violent crime (Quinton et al, 2017). The Home Office research (McCandless et al, 2016) examined Operation Blunt 2, an initiative run by the Metropolitan Police Service in 2008/09, which included a nine-fold increase in s60 searches. The report found that large surges in searches had no significant effect on trends in knife crime or robbery.

That Operation did coincide with a sharp drop in knife homicides, although the small numbers involved makes it impossible to be certain whether this fall was linked to the increase in stop and search.

It is unlikely that proposed relaxation to current arrangements for s60s will lead to the sort of surge in stop and searches that took place as part of Operation Blunt2. It is not possible to rule out that a modest increase in the use of S60 stop and searches might have a small positive impact on serious violence offences, if the power is used in a highly targeted way.

(c) fostering good relations between persons who share a relevant protected characteristic and persons who do not share it

Regardless of the accuracy of data surrounding disparities, the extent to which they can be explained by racial discriminatory practices, or its effectiveness in crime reductions, there is evidence to suggest that an increase in the use of stop and search is unlikely to be conducive to improving community relations, including trust in the police.

Studies that have looked at the relationship between police-initiated contact – including stopping people in their vehicles or on foot – and public confidence have found that the likelihood of being confident in the police among those who reported satisfactory experiences was not statistically significantly different from those of people who had no contact (Myhill and Beak 2008, Bradford and Myhill, 2015). What appears to be critical is the nature of those encounters. Experiencing 'unsatisfactory' police-initiated contact was associated with lower likelihood of being confident in the police compared to those who had no contact. The authors conclude that the best possible outcome to police-initiated contacts is that existing levels of confidence are maintained.

A YouGov study commissioned by the Criminal Justice Alliance Research explored the views of 500 young men of BAME background. The survey found that 36% of participants stated that stop and search gave them less trust in the police, while 42% disagreed or strongly disagreed that stop and search is based on fair and accurate information.
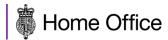
HMICFRS have also expressed concerns. According to HMICFRS 2017 PEEL inspections, disparity rates continue "to threaten trust and confidence in the police", with improvements required to the operation of stop and search if the tactic was not to "continue to undermine policy legitimacy".

Stop Watch have also highlighted that the disparity in the use of public s60 and other forms of public stop and search also risks reinforcing stereotypes around the criminality of BAME individuals. This in turn may impact upon the other forms of discrimination BAME individuals face in society.

Previous Home Office research (2000) noted a range of qualitative and quantitative evidence indicating that the use of searches could have a damaging impact on the communities in which they take place - particularly among ethnic minority communities (page 47).

It is possible that s60 specifically may be a point of contention, as officers do not have to provide or have "reasonable" grounds to suspect the person of any offences or provide person-specific justification for conducting a search.

Arrest rates for s60 tend also to be low when compared with stop and searches under s1 for which there must be reasonable suspicion attributed to the individual being searched (8% compared with 17% in 2017/18).

Home Office

---

4. Equality impact assessment- relaxation of the use of s60

This section assesses our proposed changes to relax BUSSS conditions on the use of s60 powers against relevant issues against which the public sector equality duty requires public bodies to exercise "due regard".

Before doing so, we set out the rationale behind our primary assumption in this scenario - namely, that the use of s60 stop and searches will increase.

Assumption- policy leads to increased use of s60

The use of S60 began to decline long before the introduction of BUSSS in 2014 and has since remained relatively low. As such, at most it is possible that BUSSS has contributed to the number of S60 searches *remaining* low, but this cannot be confirmed.

Despite this, several other factors lead us to conclude this policy will lead to an increase in the use of s60s. These include:

- More officers being made available to provide authorisation, as the level of seniority required is reduced;

- Lowering of the grounds for suspicion necessary; and

- The broader message this change will send around the importance of stop and search, when used proportionately, lawfully and tactically.
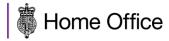
An instructive example perhaps is the MPS's increase in the use of s60 following encouragement to do so from senior officers- including the Met Commissioner. In the Commissioner's first full year in post, the number of s60 searches increased from 392 to 1,836.

a) Elimination of discrimination, harassment, victimisation

In our assessment of the current use of s60, it was concluded that there was not sufficient grounds to discount the possibility of some level of discrimination - either towards individuals, or systematically in the policing of certain communities - as an explanatory factor for existing rates of disparity.

As such, any increases in the use of s60 pose the risk of magnifying any residual levels of discrimination in the use of this power.

We would also expect, given that individuals from BAME backgrounds are more likely to be searched, that any increases in s60 would continue to disproportionately affect them. We have no evidence to indicate whether disparity rates would increase or decrease following a relaxation of current arrangements.

b) advancing equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it

Data indicate a higher rate of BAME individuals are victims of homicide than those from other backgrounds. The purpose of this policy would in part be to reduce the number of victims of serious violence.

With regards to the efficacy of stop and search alone as a tactic, research by the College of Policing and the Home Office suggests that changes in the level of stop and search have only a small effect – at best – on trends in violent crime (including knife crime), even when measured at the local level.

However, it important to consider the context against which the Operation Blunt2 research took place. It is unlikely that proposed relaxation to current arrangements for s60s will lead to the sort of surge in stop and searches that took place as part of Operation Blunt2. It is not possible to rule out that a modest increase in the use of S60 stop and searches might have a small positive impact on serious violence offences, if the power is used in a highly targeted way.

(c) fostering good relations between persons who share a relevant protected characteristic and persons who do not share it.

Historically, increased use of S60 searches has been matched by lower arrest rates. More recently, the 2017/18 increase in S60 use in the MPS led to a fall in the arrest rate. Therefore, if these amendments do lead to an increase in S60 searches, it can be assumed that more people would be searched but not arrested.
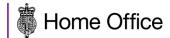
If we are to assume, as above, that disparity rates in the use of s60 persist, then it is likely that more BAME individuals are searched under this power despite not committing any offences, and without being provided with significant person-specific justification for searches taking place.

Given the potentially negative impact on trust in the police that an increase in stop and search might have, this would probably risk having a negative effect on a part of the community where trust / confidence levels are typically low. Since trust in the police and co-operation with them is often necessary for effective community policing, such changes may create broader issues.

1. Mitigation of adverse impact

It should be noted that recent significant rises in knife crime and serious violence present a case for change. Forces have indicated that the aforementioned relaxation would enable greater confidence in the use of stop and search, as part of a broader public health approach to tackling violence.
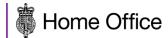
Any prospective changes would be highlighted to police chiefs, with the caveat that government expects to see continued attention on the issue of community relations, public trust and racial disparities. The continued embedding and implementation of other safeguards introduced by BUSSS would be hastened (e.g.

public justification of searches, greater community engagement) in order to ensure that any rise in the use of s60 remained targeted, justifiable and proportionate.
2. Review of EIA
The impact of any relaxation would be under regular review and scrutiny, including one year after the announcements of said changes.

References:

Bradford, B, & Myhill, A (2015). Triggers of change to public confidence in the police and criminal justice system: Findings from the Crime Survey for England and Wales panel experiment. *Criminology & Criminal Justice*, 15(1), 23–43.

 Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS) (2017) *PEEL: Police legitimacy 2017. A national overview.*

Home Office (2018). *Police Powers and Procedures, year ending 31 March 2018. Home Office Statistical Bulletin.*

Home Office (2018). *Serious Violence Strategy.*

Home Office and College of Policing (2014). *Best Use of Stop and Search Scheme (BUSSS).* Home Office.

Keeling, P. (2017) *No respect: Young BAME men, the police and stop and search.* Criminal Justice Alliance.

McCandless R, Feist A, Allan J and Morgan N (2016). *Do initiatives involving substantial increases in stop and search reduce crime? Assessing the impact of Operation BLUNT 2.* Home Office.

Myhill, A. and Beak, K. (2008). *Public Confidence in the Police.* National Policing Improvement Agency.

Quinton, P, Bland, N and Miller, J (2000). *Police Stops, decision-making and practice.* Home Office.

Quinton, P, Tiratelli, M and Bradford, B (2017). *Does more stop and search mean less crime? Analysis of Metropolitan Police Service panel data, 2004–14.* College of Policing.

Shiner, M, Carre, Z, Delsol, R and Eastwood, N (2018). *The Colour of Injustice: 'Race', drugs and law enforcement in England and Wales*. StopWatch.