



Home Office

Police and Criminal Evidence Act 1984 (‘PACE’) Code of Practice Consultation

**Government Response to Home Office
consultation on PACE Code A (Stop and
Search)**

October 2022

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1. Introduction

- 1.1. Section 66 of the Police and Criminal Evidence Act 1984 ('PACE') requires the Home Secretary to establish a number of Codes of Practice which govern the use of police powers, including the associated rights and safeguards for suspects and the public in England and Wales.
- 1.2. Section 67(4) of PACE requires that where the Home Secretary wishes to revise a Code of Practice, a statutory consultation must first be carried out. This consultation must include:
 - 1.2.1. Persons who appear to represent the views of Police and Crime Commissioners;
 - 1.2.2. the Mayor's Office for Policing and Crime;
 - 1.2.3. the Common Council of the City of London;
 - 1.2.4. the National Police Chiefs' Council;
 - 1.2.5. the General Council of the Bar;
 - 1.2.6. the Law Society of England and Wales
 - 1.2.7. the Institute of Legal Executives; and
 - 1.2.8. other persons as the Home Secretary thinks fit.
- 1.3. The Home Office consultation on proposed revisions to Code of Practice A (Stop and Search), ran from 16 May 2022 to 27 June 2022. In accordance with section 67(4) of PACE, the statutory consultees and others were invited to comment.
- 1.4. Consultation is a critical element in the development of the PACE Codes of Practice. It helps to ensure that police continue to be able to exercise their powers effectively whilst at the same time ensuring that appropriate safeguards for suspects are in place. We are grateful to those who took the time to consider the proposals and to respond to the consultation.
- 1.5. This Government response to the consultation sets out the rationale for making the revisions to Code A, provides a summary overview of the responses and outlines the Government's proposed next steps.

PACE Code A

1.1 Rationale

- 1.1.1 We have introduced Serious Violence Reduction Orders (SVROs) in the Police, Crime, Sentencing and Courts (PCSC) Act 2022. SVROs are a new civil order which give the police powers to stop and search individuals convicted of an offence where a knife or offensive weapon was used or was present.
- 1.1.2 We will pilot SVROs in West Midlands, Merseyside, Thames Valley and Sussex Police forces before a decision is made on roll out across England and Wales. Further details on SVROs can be found on [gov.uk](https://www.gov.uk).
- 1.1.3 We have proposed amendments to Code A to include powers in relation to SVROs before commencing the pilot. The revised Code A includes a temporary new Annex (Annex G) for the purposes of the pilot, which outlines the powers under section 324E of the Sentencing Code (in relation to individuals subject to an SVRO) and the considerations police officers should make when deciding to conduct a search on individuals. In particular:
 - Highlights that the power does not require officers to have prior reasonable grounds but must not be based on prejudice;
 - Highlights that searches can only be conducted on those with an SVRO and officers should seek to confirm the identity of the individual;
 - Outlines that the use of the power like all other stop and search powers is discretionary, and officers will be expected to use their judgement when choosing to conduct searches;
 - Outlines that the new Annex shall apply for the period of the pilot (24 months) plus an additional 6-month transitional period. The 6-month transitional period allows for SVROs which take effect before the end of the pilot period to remain “live” for 6 months after the end of the pilot, but it will not be possible to apply for new SVROs or renew existing SVROs once the pilot period ends. This allows courts to issue an SVRO on the last day of the pilot for the minimum duration of the order (6 months);
 - Outlines the territorial extent of the use of the powers. This includes that SVROs will only be issued in the pilot police forces areas however the stop and search powers are enforceable across England and Wales. This is aimed at supporting an operational response across jurisdictions, allowing constables from non-pilot forces to stop and search individuals subject to SVROs if they travel outside of the pilot area.

1.2 Responses – summary

- 1.2.1 **We received written responses from 11 separate individuals and organisations.** (See Table of Respondents at paragraph 1.3).
- 1.2.2 We also engaged directly with a number of stakeholders through the SVRO Working Group inviting them to provide comments on the draft revised code. Members of the working group include: West Midlands, Merseyside, Thames Valley and Sussex Police forces, representatives from the NPCC Knife Crime, Serious Violence and Stop and Search portfolios, British Transport Police, HMICFRS, College of Policing, HMCTS, HMPPS, CPS and the Judicial Office. We also welcomed comments from the PACE Strategy Board which includes Liberty, NPCC, Police Federation, HMICFRS, College of Policing, ICVA, Criminal Law Society and the IOPC
- 1.2.3 **The majority of responses acknowledged that the proposed changes to PACE Code A were key to ensuring police officers have clear guidance on the powers and ensuring that stop and search powers in relation to SVROs are used in a way that is fair and proportionate.** A number of themes were raised in response to the consultation:

Territorial Extent of SVROs

- 1.2.4 The proposed revised Code A outlines the territorial extent of the use of the powers. This includes that SVROs will only be issued in the pilot police force areas; however, the stop and search powers are enforceable by all constables across England and Wales. This is aimed at supporting an operational response across jurisdictions, allowing constables from non-pilot forces to stop and search individuals subject to SVROs if they travel outside of the pilot area.
- 1.2.5 The majority of members on the SVRO working group highlighted the issue of travelling criminality and supported allowing the use of the stop and search power by police constables both within and outside of the pilot force areas. They suggested that this could reduce the chances of offenders moving out of a pilot force area and committing crime elsewhere. It was suggested that this could help police forces to work together to target offenders.
- 1.2.6 In one response to the consultation, it was also suggested that there must be robust information sharing between all forces, in particular between pilot forces and non -pilot forces (such as British Transport Police) to ensure they are aware of individuals with SVROs.
- 1.2.7 One police force who responded to the consultation was content that the draft code clarifies that the necessary search powers will be enforceable across England and Wales, therefore police constables in all territorial and special police forces will be able to stop and search individuals subject to an SVRO.

Fair Use of the Power and Disproportionality

- 1.2.8 The majority of responses to the consultation highlighted that for all stop and search powers, it is vital that officers act professionally, respectfully and proportionately when exercising the powers. It was suggested that this will be particularly important where the power does not require reasonable suspicion.
- 1.2.9 It was also emphasised throughout the responses to the consultation that the implementation of SVROs must be delivered fairly and robust police training must be in place to avoid any disproportionate impact on individuals from ethnic minority backgrounds, in particular young black men.
- 1.2.10 It was noted that the revised code does include guidance that searches must not be based on prejudice, but on the fact the individual is subject to an SVRO. However, one respondent suggested that the revised code would benefit from clarification that a person accompanying someone with an SVRO should not be searched unless a constable has the relevant reasonable grounds for suspicion so as to avoid further issues regarding disproportionality.
- 1.2.11 The Government fully supports the police in the fair use of stop and search to crack down on violent crime and protect communities. No one should be targeted because of their race and extensive safeguards, including the statutory codes of practice, use of body worn video and external scrutiny, exist. The Government collects more data on stop and search than ever before. This data is published online, allowing local scrutiny groups, PCCs and others to hold forces to account. HMICFRS also inspects force stop and search data annually, and extensive data is also published to increase trust and transparency.
- 1.2.12 We will work with the pilot forces to ensure that the revisions to the code are supported by statutory guidance, training for the police on how to use the power and that police forces engage with local communities on how these powers are being used.

Implementation of the SVRO Pilot

- 1.2.13 Some respondents were keen to know how practices and data from the SVRO pilot will be monitored. There was also interest in how any disproportionate outcomes will be identified, acted on and learnt from. It was suggested by one respondent that any disproportionality in the issuing of SVROs and use of the associated stop and search powers should be carefully monitored. Other respondents also expressed interest in how SVROs will impact on volumes of people carrying weapons, confidence in policing, and violent crime.

1.2.14 The Government is piloting SVROs to build an understanding of the impact and effectiveness of SVROs before making a decision on whether they should be rolled out nationally. We have appointed an independent evaluator who will work with the pilot police forces to ensure that an impact and process evaluation of activity undertaken through pilot can be carried out.

1.2.15 The Government will also work with the pilot forces and independent evaluator to ensure that the pilot assesses the effect of SVROs; community responses to the orders; the potential impact on offenders, including any issues of disproportionality, and the outcomes for offenders who are subject to an SVRO. To inform this assessment, data will be gathered on a number of measures, including the age, sex and ethnicity of people subject to SVROs.

1.2.16 Following the pilot, a report will be produced and laid before Parliament on the operation of the pilot.

Wider SVRO Policy

1.2.17 We also received wider comments in relation to the SVRO policy and legislation. This included the overall impact of SVROs, how many times an individual can be stopped, what is meant by previous convictions when deciding who gets an SVRO, the impact on rehabilitation of individuals and the misuse of the power.

1.2.18 On 14 September 2020, the Home Office launched an eight-week public consultation on SVROs. The consultation aimed to gauge the views of the public, police, charities and other organisations on the design of these orders. A government response can be found on [gov.uk](https://www.gov.uk).

1.3 Table of Respondents

No	Organisation/ individual
1.	Welsh Government, Community Safety Division
2.	Thames Valley Police, Violence Reduction Unit
3.	CILEX
4.	NPCC Custody Portfolio
5.	Member of the Public
6.	Independent Office of Police Conduct (IOPC)
7.	British Transport Police
8.	Joint Civil Society (Liberty, Stop Watch, Fair Trials, Big Brother Watch, Unjust, EVAW, CJA, Justice)
9.	His Majesty's Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS)
10.	Crown Prosecution Service
11.	Havering, Stop and Search Community Monitoring Group

(NPCC = National Police Chiefs' Council)

2. Outcome

2.1 The outcome of the consultation prompted some revisions to the initial proposals. In particular:

- 2.2 Clarification that a person accompanying, or in a group with someone that has an SVRO, should not be searched unless a constable has the relevant reasonable grounds for suspicion;
- 2.3 Minor typographical and grammatical corrections have also been made.
- 2.4 We are working with the SVRO Working Group to develop statutory guidance and support material for the SVRO pilot.
- 2.5 The revised Code of Practice will be laid before Parliament together with a draft statutory instrument which, subject to approval from both Houses of Parliament, would bring the Code into operation and an Explanatory Memorandum. The [2015 version of Code A](#) will remain unchanged and in force until the revised code is approved by both Houses of Parliament. Information for police, practitioners and the public about the Parliamentary process and copies of the revised Code and this response will be available online at: <https://www.gov.uk/police-and-criminal-evidence-act-1984-pace-codes-of-practice>.

3. Useful Resources

[Serious Violence Reduction Orders: Police, Crime, Sentencing and Courts Act 2022 factsheet - GOV.UK \(www.gov.uk\)](#)

[Serious Violence Reduction Orders - GOV.UK \(www.gov.uk\)](#)

[Police and Criminal Evidence Act 1984 \(PACE\) codes of practice - GOV.UK \(www.gov.uk\)](#)

[Police, Crime, Sentencing and Courts Act 2022 \(legislation.gov.uk\)](#)

[Sentencing Act 2020 \(legislation.gov.uk\)](#)

[Serious Violence Reduction Orders: draft statutory guidance \(publishing.service.gov.uk\)](#)