

## IPCC position regarding police powers to stop and search

### 1. Introduction

- 1.1. Police powers to stop and search individuals can have a significant impact – positive, where it is effective and negative where it is not – on public confidence in policing. Given the importance of this area, the Independent Police Complaints Commission (IPCC) has developed a policy position on the police use of stop and search powers, based on its experience from cases and guardianship work to date.
- 1.2. Our experience has identified the following key findings:
  - People who are unhappy with stop and search encounters, in particular young people and those from black and minority ethnic backgrounds, have the least confidence both in the police and the police complaints system.<sup>1</sup> Their experience is therefore likely to feed back into negative perceptions of policing.
  - Where complaints are made, they are usually handled at a local level and unsubstantiated due to conflicting evidence given by the complainant and the officer, which is likely to lead to greater individual dissatisfaction both with the police and the complaints system.
  - There is little evidence to support the effectiveness of prevention, detection or deterrence of stop and search powers, which play into the community perceptions that stop and search is not effective.
  - Both the public and the police are often unsure of the powers associated with the different specific stop and search legislation. **Annex A** provides an overview of a few of the more common stop and search powers. The confusion can result in an uninformed or even worse, unlawful use of the powers. In some uses of stop and search the police are not obliged to provide individuals with an explanation for why they are being stopped (section 60 of the Criminal Justice and Public Order Act) nor do they need to have reasonable grounds to carry out a stop. However, not all legislative tools used to employ stop and search provide such a wide remit

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<sup>1</sup> The Public Confidence and Perceptions Report published by the Home Office shows that prior to contact with the police Asian, Black and Mixed Race respondents tend to have more confidence in the police than White respondents. However, Black, Asian and Mixed Race respondents' confidence in police fell well below that of White respondents after any form of contact with police.

and require the police to have reasonable grounds to carry out a stop and search (section 23 Misuse of Drugs Act).

## 2. The IPCC position

2.1. The IPCC recognises that police powers to stop and search individuals exist and that the police will use them. The IPCC also believes that the use of stop and search powers are highly intrusive and where they are not seen to be fair, effective or carry public confidence may seriously risk undermining individual and community confidence in policing.

2.2. The IPCC therefore believes that it is not enough for the exercise of stop and search powers to simply be within the law. Where stop and search powers are used by the police, they should be used in a way that demonstrably meets the following objectives:

- fairness
- effectiveness
- carries public confidence

## 3. Principles

3.1. The IPCC believes that exercising stop and search powers in line with the principles outlined below will best promote the above objectives.

### 3.2. 1. Fairness: the encounter

3.2.1 **Each officer who exercises the power of stop and search – whether or not the law requires the stop to be on reasonable grounds – must be able to answer the question: “Why did you stop me?” It is not enough to say “Because I can”, or “I don’t have to give a reason”.** The officer should be able to respond by explaining the reasons – for example, the intelligence available or problem profile the officer was provided with. Providing an informed explanation is a basic but critical step in helping to improve the quality of the encounter and ensure that it does not lead to reduced confidence or a feeling of unfairness.

### 3.3. 2. Effectiveness: purposes of the use of stop and search powers

3.3.1 The IPCC believes that the primary purpose of the use of stop and search powers should be for the detection and prevention of crime. We recognise that some forces use the powers for the purposes of disruption and deterrence. **Regardless of the purpose for which stop and search powers are used, the police should be able to demonstrate effectiveness of the powers through regular**

**monitoring**, taking into account the volume of complaints, the number of fixed penalties, cautions, arrests and charges arising from stops, the impact on crime profiles and the level and quality of local intelligence-gathering.

3.4. 3. Fairness and effectiveness

3.4.1 Local police commanders need to ensure that the most appropriate powers are used to achieve the policing objectives. They must also ensure that their officers can differentiate between, and have a good understanding of, the different powers available to them. The use of “blanket” powers – such as those in section 60 of the Criminal Justice and Public Order Act – need to be supported by a focused and specific intelligence package, rather than merely referring to ethnic origin or the reputation of an area.

3.5. 4. Public confidence: engaging with communities

3.5.1 The IPCC believes that communities are more likely to have greater confidence in stop and search powers if they are used properly and are demonstrably effective. Local police commanders therefore need to engage with communities to inform people about the use of the powers within their local policing area, and demonstrate the effectiveness as described in point two above. Communities should also be afforded the opportunity to feedback to police their experience of stop and search and to discuss their concerns about crime in their area.

3.5.2 Communities should be aware of the reasons behind any “blanket” powers, such as those in section 60 or section 44 of the Terrorism Act, as described in point three above. Police commanders need to clearly show the purpose of a specific stop and search operation to both the officers and the communities they serve. For example, in the Police and Criminal Evidence Act Codes of Practice the primary purpose of the stop and search power is: ‘to enable officers to allay or confirm suspicions about individuals without exercising their power to arrest’. But we know that the powers are also used to deter and disrupt – the police should therefore be open with the local community about their intentions.

3.5.3 Local police commanders should also use their community engagement opportunities to inform community members about the roles and responsibilities of both the police officer who carries out the stop and search and the individual who is stopped. Clarity about what is expected of both parties means that misunderstandings are less likely to occur.

3.6. 5. Public confidence: handling of complaints

- 3.6.1 The IPCC recognises that the current complaints system, which focuses on an officer's conduct, does not generally deliver outcomes that satisfy either complainants or the police. Stop and search encounters that meet the principles set out above, and which help to avoid complaints, are more likely to deliver public confidence. Police Authorities should monitor their force's use of the powers and play a proactive role to ensure public confidence is not damaged as a result of that use.
- 3.6.2 When a complaint is made a significant proportion of complaints about stop and search can be dealt with using Local Resolution. The quality of the resolution as well as the willingness of the police to provide an explanation or apology, as appropriate, and learn from complaints are therefore crucial to public confidence. Where the complaint results in an investigation, this should examine the relevant intelligence and authorisations, as well as the individual officer's knowledge of the powers and process, rather than focusing narrowly on the alleged misconduct.

**IPCC**  
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## Annex A

### SUMMARY OF MAIN STOP AND/OR SEARCH POWERS

(Taken from Police and Criminal Evidence Act 1984 (s60(1)(a), s60A(1) and s66(1)) Codes of Practice A-F 2005 Edition)

Power	Object of search	Extent of search	Where exercisable	Reasonable grounds needed?
Police and Criminal Evidence Act 1984 s1	Stolen goods; articles for use in theft, offensive weapons inc blades and fireworks	Persons and vehicles	Where there is public access	yes
Misuse of Drugs Act 1971 s23	Controlled drugs	Persons and vehicles	Anywhere	yes
Criminal Justice and Public Order Act 1994 s60	Offensive weapons or dangerous instruments to prevent incidents of serious violence or to deal with carrying of such items	Persons and vehicles	Anywhere within a locality authorised under (1)	no
Road Traffic Act 1988 s163		Vehicles (power to stop only)	Anywhere	no
Firearms Act 1968 s47 5	Firearms	Persons and vehicles	A public place or anywhere in the case of reasonable suspicion of offences of carrying with criminal intent or trespassing	yes
Terrorism Act 2000 s44 (1)	Articles which could be used in connection with acts of terrorism	Vehicles, drivers and passengers	Anywhere within the area authorised under (1)	no
Terrorism Act 2000 s44(2)	Articles which could be used in connection with acts of terrorism	Pedestrians	Anywhere within the area authorised	no
Terrorism Act 2000 s43	Evidence of liability to arrest under s14	Persons	Anywhere	yes