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Foreword

Thank you for your interest in the work of the Bedfordshire Police Stop & Search Community Scrutiny Panel. The purpose of this guide is to help anyone who is interested know of the work that we do and the methods that we follow. Overall the aim is to ensure that Stop and Search works for the community, police officers who use the tactics and also for the senior leaders.

Effective for the community

It’s important that stop and search is used fairly and that members of the public understand the reasons for the tactic being used. Officers who’s role is to serve and protect all of us often need to talk with members of the community to build relationships. I would encourage all members of the community to always be polite and cooperate. In many instances after a brief conversation a stop and search may not be necessary. Any stop and search must be aimed at finding an item that the officer suspects a person has in their possession. The stop and search must also be proportionate. The community scrutiny panel monitors samples of receipts and body warn videos to ensure that we are happy with the way the tactic is being used.

Effective for officers

We are aware that the tactic can be necessary in some cases to keep dangerous weapons of the street, to tackle burglary and theft issues and also to remove drugs from our communities. We are aware that when conducting stop and searches its necessary for the officer to feel safe and sometimes take precautions in the way that a search is conducted. We also recognise that more often than not a search will not produce the required outcome that the intention was to find. In conducting the search, officers are required to follow the code of practice “Code A” which is the statutory guidelines on how stop and searches should be conducted. Members of the public must also be treated with respect.

Effective for the force as a whole

The way the tactic is used is an opportunity for officers to build confidence in policing and relationships with sections of our community. By ensuring that officers follow the code of practice and the code of ethics the end result will be lower tensions and more positive outcomes from searches. We want value for money. If officer’s conduct searches efficiently they are then available for redeployment to more urgent or more important cases. Officers should hold each other to account and challenge each other if they feel there is wrongdoing; everyone is expected to uphold the code of ethics. Overall the tactics must be effective for the community, for officers the force as a whole.

Foreword by Montell Neufville, Managing Director of ATT10TIVE and Chair of Bedfordshire Stop & Search Community Scrutiny Panel.
1. **What is the purpose of stop and search?**

The powers for an officer to conduct stop and searches are contained within the Police and Criminal Evidence Act 1984 (revised regulations 2013) Code of Practice: Code A. The primary purpose of stop and search powers is to enable officers to allay or confirm suspicions about individuals without exercising their power of arrest.

Furthermore, **powers to stop and search must be used fairly, responsibly, with respect for people being searched and without unlawful discrimination.** Under the Equality Act 2010, section 149, when police officers are carrying out their functions, they also have a duty to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation, to advance equality of opportunity between people who share a relevant protected characteristic and people who do not share it, and to take steps to foster good relations between those persons.

2. **Under which laws can a stop and search be conducted?**

The table below outlines which laws give an officer the power to conduct a stop and search. It must be noted that this is not an exhaustive list.

<table>
<thead>
<tr>
<th>Power</th>
<th>Object of search</th>
<th>Extent of search</th>
<th>Where exercisable</th>
</tr>
</thead>
<tbody>
<tr>
<td>Police and Criminal Evidence Act 1984, s.1.</td>
<td>• Stolen goods; articles made, adapted or intended for use in the course of or in connection with, certain offences under the Theft Act 1968, Fraud Act and Criminal Damage Act 1971; • Offensive weapons, bladed or sharply-pointed articles (except folding pocket knives with a blade cutting edge not exceeding 3 inches); • Fireworks: Category 4 (display grade) fireworks if possession prohibited, adult fireworks in possession of a person under 18 in a public place.</td>
<td>Persons and vehicles.</td>
<td>Where there is public access.</td>
</tr>
<tr>
<td>Misuse of Drugs Act 1971, s.23.</td>
<td>• Controlled drugs</td>
<td>Persons and vehicles.</td>
<td>Anywhere.</td>
</tr>
<tr>
<td>Section 60 Criminal Justice and Public Order Act 1994.</td>
<td>• Offensive weapons or dangerous instruments to prevent incidents of serious violence or to deal with the carrying of such items or find such items which have been used in incidents of serious violence.</td>
<td>Persons and vehicles.</td>
<td>Anywhere within a locality authorised under subsection (1)</td>
</tr>
</tbody>
</table>
3. What is “the reasonable grounds” legal test?
An officer is usually required to have reasonable grounds for suspicion in order to conduct a stop and search; it depends on which law an officer wishes to use. For example, searches under section 1 of the Police and Criminal Evidence Act 1984, or section 23 of the Misuse of Drugs Act 1971, require an officer to have reasonable grounds for suspicion.

The following two-part test must be satisfied in circumstances that require reasonable grounds for suspicion:

- Firstly, the officer must have formed a genuine suspicion in their own mind that they will find the object for which the search power being exercised allows them to search...; and

- Secondly, the suspicion that the object will be found must be reasonable. This means that there must be an objective basis for that suspicion based on facts, information and/or intelligence which are relevant to the likelihood that the object in question will be found, so that a reasonable person would be entitled to reach the same conclusion based on the same facts and information and/or intelligence. [Police and Criminal Evidence Act 1984, Code of Practice: Code A, paragraph 2.2.]

In the case of searches under section 43 of the Terrorism Act 2000, a constable may stop and search a person whom the officer reasonably suspects to be a terrorist to discover whether the person is in possession of anything which may constitute evidence that the person is a terrorist.

4. How can an objective basis for suspicion be formed?
The acronym ‘SHACKS’ highlights what can be used to form an objective basis for suspicion and Figure 1 explains the use of questioning. Additionally, in the case of Howarth v Commissioner of Police of the Metropolis [2011] EWHC 2818 (Admin), Mr Justice McCombe stated that ‘a search is not lawful if the searching officer merely relies upon superior orders’.

<table>
<thead>
<tr>
<th>Seen</th>
<th>Heard</th>
<th>Action</th>
<th>Conversation</th>
<th>Knowledge</th>
<th>Smell</th>
</tr>
</thead>
</table>
5. **What process should be followed for a stop and search?**

‘GOWISELY’ is an acronym that highlights which information must be given to an individual when they are being detained for the purpose of a stop and search.

<table>
<thead>
<tr>
<th><strong>GOWISELY</strong></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Grounds</strong></td>
<td>Grounds for the search.</td>
</tr>
<tr>
<td><strong>Object</strong></td>
<td>Object of search.</td>
</tr>
<tr>
<td><strong>Warrant card</strong></td>
<td>Warrant card if the officer is not uniform.</td>
</tr>
<tr>
<td><strong>Identity</strong></td>
<td>The officer’s name (except in the case of enquiries linked to the investigation of terrorism, or otherwise where the officer reasonably believes that giving his or her name might put him or her in danger, in which case a warrant or other identification number shall be given).</td>
</tr>
<tr>
<td><strong>Station</strong></td>
<td>Station to which attached.</td>
</tr>
<tr>
<td><strong>Entitlement</strong></td>
<td>Entitlement to a copy of the search form.</td>
</tr>
<tr>
<td><strong>Legal power</strong></td>
<td>The legal search power that is being exercised.</td>
</tr>
<tr>
<td><strong>‘You’</strong></td>
<td>Individual should be told that they are being detained for the purpose of a search.</td>
</tr>
</tbody>
</table>
6. **Which items may be removed during a search?**
Except under section 60AA of the Criminal Justice and Public Order Act 1994 (which empowers a constable to require a person to remove any item worn to conceal identity), public searches are limited. An individual may be required to remove the following:

- Jacket
- Outer coat
- Gloves

7. **What is the protocol for a more thorough search?**
Under paragraph 3.7, Code A states that ‘**searches involving exposure of intimate parts of the body must not be conducted as a routine extension of a less thorough search, simply because nothing is found in the course of the initial search**’.

Where on reasonable grounds it is considered necessary to conduct a more thorough search (e.g. by requiring a person to take off a T-shirt):

- this must be done out of public view, for example, in a police van unless it is an intimate search;
- any search involving the removal of more than an outer coat, jacket, gloves, headgear or footwear, or any other item concealing identity, may only be made by an officer of the same sex as the person searched and may not be made in the presence of anyone of the opposite sex unless the person being searched specifically requests it.
- Searches involving exposure of intimate parts of the body may be carried out only at a nearby police station or other nearby location which is out of public view (but not a police vehicle).
8. What is the Code of Ethics?

The College of Policing issued the Code of Ethics, under section 39A of the Police Act 1996 (as amended by section 124 of the Anti-Social Behaviour, Crime and Policing Act 2014). The Code of Ethics makes reference to the standards of professional behaviour. A stop and search must be conducted in a manner that adheres to these standards.

<table>
<thead>
<tr>
<th>Standards of Professional Behaviour [Schedule 2, Police (Conduct) Regulations 2012]</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Honesty and Integrity</strong></td>
</tr>
<tr>
<td>Police officers are honest, act with integrity and do not compromise or abuse their position.</td>
</tr>
<tr>
<td><strong>Authority, Respect and Courtesy</strong></td>
</tr>
<tr>
<td>Police officers act with self-control and tolerance, treating members of the public and colleagues with respect and courtesy.</td>
</tr>
<tr>
<td>Police officers do not abuse their powers or authority and respect the rights of all individuals.</td>
</tr>
<tr>
<td><strong>Equality and Diversity</strong></td>
</tr>
<tr>
<td>Police officers act with fairness and impartiality. They do not discriminate unlawfully or unfairly.</td>
</tr>
<tr>
<td><strong>Use of Force</strong></td>
</tr>
<tr>
<td>Police officers only use force to the extent that it is necessary, proportionate and reasonable in all the circumstances.</td>
</tr>
<tr>
<td><strong>Duties and Responsibilities</strong></td>
</tr>
<tr>
<td>Police officers are diligent in the exercise of their duties and responsibilities.</td>
</tr>
<tr>
<td><strong>Confidentiality</strong></td>
</tr>
<tr>
<td>Police officers treat information with respect and access or disclose it only in the proper course of police duties.</td>
</tr>
<tr>
<td><strong>Challenging and Reporting Improper Conduct</strong></td>
</tr>
<tr>
<td>Police officers report, challenge or take action against the conduct of colleagues which has fallen below the Standards of Professional Behaviour.</td>
</tr>
</tbody>
</table>
9. **Are group searches permitted under Code A?**

   Code A states that a decision to search individuals believed to be members of a particular group or gang must be judged on a case by case basis according to the circumstances applicable at the time of the proposed searches and in particular, having regard to:

   a) the number of items suspected of being carried;
   b) the nature of those items and the risk they pose; and
   c) the number of individuals to be searched.

   A group search will only be justified if it is a necessary and proportionate approach based on the facts and having regard to the nature of the suspicion in these cases. The extent and thoroughness of the searches must not be excessive.

   The onus is on the police to be satisfied and to demonstrate that their approach to the decision to search is in pursuit of a legitimate aim, necessary and proportionate. [Police and Criminal Evidence Act 1984, Code of Practice: Code A, paragraph 9A.]

   It is never justified to search a group based on ethnicity, religion or other non-policing factors. Groups can only be searched if an officer forms the opinion that he or she is likely to find the item they are looking for on the individual to be searched.

10. **What is a fair and effective stop and search?**

    The College of Policing have stated that a stop and search is likely to be fair and effective when:

    - The search is justified, lawful and stands up to public scrutiny;
    - The officer has genuine and objectively reasonable suspicion they will find a prohibited article or item for use in crime;
    - The person understands why they have been searched and feels that they have been treated with respect;
    - The search was necessary and was the most proportionate method the police officer could use to establish whether the person has such an item.

**What is the Best Use of Stop and Search Scheme?**

The Best Use of Stop and Search Scheme was introduced by the Home Secretary in 2014 with the aim of addressing the concerns raised in a number of major enquiries. ‘The Stephen Lawrence Inquiry (Macpherson, 1999) concluded that the police were institutionally racist, in part, because of the disproportionate searching of people from ethnic minorities. The Equality and Human Rights Commission stop and search 2010 and Stop and Think again 2013 reports raised concerns about the excessive and disproportionate use of police search powers. Her Majesty’s Inspectorate of Constabulary report (Stop and search are the police using the powers effectively -HMIC 2013) examined whether stop and search was being used effectively and fairly by forces, highlighted that 27% search records did not contain sufficient grounds to justify the search, and that most officers in England and Wales had not received any training on the use of stop and search powers since they completed their recruitment training.”
11. **What are the principle aims of the Best Use of Stop and Search Scheme?**

The Best Use of Stop and Search Scheme aims to encourage the use of stop and search powers in an intelligence-led way so that when stop and search is used, it leads to a better outcome. It also promotes transparency between the police and the public in order to create community cohesion.

It requires police forces who sign up to:

- Record stop and search outcomes.
- Allow lay people to accompany an officer and potentially witness a stop and search if the officer feels the need to conduct one.
- Complaints ‘community trigger’ - police forces must explain to community scrutiny groups how powers are used where there has been a large number of complaints.
- Reducing section 60 stop and searches which requires ‘no suspicion’. (under the criminal justice and public order Act 1994)
- Shifting the level of authorisation for section 60 stop and searches to Assistant Chief constable from inspector.
- In anticipation of serious violence, the authorising officer must reasonably believe that an incident involving serious violence will take place rather than may take place.
- Where practicable, the police should inform the community in advance if there is a section 60 authorisation.

12. **Which forces are participating in the Best Use of Stop and Search Scheme?**

All 43 police forces in England and Wales have elected to sign up to the Best Use of Stop and Search Scheme.

13. **What data must be recorded?**

Forces must show the number of times stop and search was used and if this led to the object, that was being searched for, being found. The following outcomes of stop and search must be recorded:

- a. Arrest
- b. Summons / charged by post
- c. Caution (simple or conditional)
- d. Khat or cannabis warning
- e. Penalty Notice for Disorder
- f. Community resolution; or
- g. No further action disposal
14. **What are the consequences of a stop and search that was not conducted correctly?**

- Breach of protocol may be in contravention under rights under the Human Rights Act 1998.
- Under Code A, the code of practice for the use of stop and searches, any misuse of the powers is likely to be harmful to policing and lead to mistrust of the police. Officers must also be able to explain their actions to the member of the public searched. The misuse of these powers can lead to disciplinary action.
- If an individual believes that a stop and search has not followed the code as outlined in these notes, they may make a complaint to Bedfordshire police or the police service where the officer comes from or the search took place.