Community oversight

There are two aspects to community oversight in the context of stop and search:

- Community engagement – informing communities about stop and search, listening to their views (however challenging they may be), and taking those views into account.
- Independent scrutiny – opening stop and search practices up to communities for close examination, with a view to them providing constructive oversight, dialogue and challenge.

Community oversight can provide opportunities for the police to:

- understand communities' concerns and take steps, where appropriate, to improve policies, procedures and practices
- help ensure people understand police powers and how they are used
- increase the legitimacy of stop and search, and public trust in the police

Community engagement

The police are legally required to engage with local communities, though these requirements do not specifically relate to stop and search. Under section 34 of the Police Reform and Social Responsibility Act 2011, chief officers must make arrangements in each neighbourhood to:

- obtain the views of the public on crime and disorder in the local area
- provide local information about crime and policing
- hold regular public meetings

In addition, police and crime commissioners (PCCs) or their equivalents must, under section 14 of the same act, make arrangements for obtaining the views of communities in particular circumstances (eg, before issuing a police and crime plan) and, under section 17, have regard to the views of people in their areas on policing, when carrying out their functions.

The evidence highlights the following as important aspects of community engagement in policing, and should be considered by the police when planning engagement activities with local communities on stop and search or in general:

- Demonstrating an organisational commitment to engagement, and valuing the input of communities.
- Using engagement to establish a two-way dialogue between police and communities.
- Being clear and open about the specific purpose of engagement, and why use of particular engagement methods is appropriate.
- Carrying out a community mapping exercise to identify the communities in a local area, including those people most likely to be affected by stop and search and by the crime types targeted by stop and search.
- Working with partners and stakeholders to understand what arrangements and opportunities already exist for engagement.
- Involving communities in the planning of engagement activities, and sharing ownership of the process with them.
- Taking a flexible approach, which will involve tailoring the timings, locations and methods of engagement to suit the needs and preferences of different people.
- Using proactive methods of engagement – which involve the police going to communities – as they are likely to reach a broader cross-section of a community than more traditional, passive methods.

- Understanding why some communities may be unwilling or unable to engage with the police (eg, a lack of trust or capacity rather than interest) and not underestimating the effect of poor police-community relations.
- Playing an active role in overcoming any barriers to engagement, including sustained efforts to gain community trust and secure public cooperation, such as:
    - using more informal methods of engagement (at least initially)
    - being fair and respectful during police-public contacts
    - being markedly more visible in a local area through targeted deployments or the provision of information via social media
    - demonstrably tackling long-standing community concerns about crime and how it has been policed
- Trying different approaches to engagement, if people start to become disengaged.

In addition, community engagement provides an opportunity for the police to be transparent about how it gathers and processes people's data in respect of stop and search, about which people have a right to be informed under the General Data Protection Regulation (GDPR).

Specifically in respect of section 60 of the Criminal Justice and Public Order Act (CJPOA) 1994, forces should be proactive in:

- engaging communities in advance of an authorisation to assist operational planning and mitigate any community concerns, recognising that doing so may only be practicable with some planned authorisations because of the immediacy of the risk in other, more dynamic, operational situations
- publicising details (eg, via social media, police A-boards and key individual networks) where and when authorisations have been made, clearly and as soon as practicable, to inform the public, provide reassurance and maximise any deterrence effect
- allowing members of the public to observe operations where 'no suspicion' searches have been authorised
- engaging communities after an authorisation to mitigate any community concerns and report back the operational outcomes of authorisations and other relevant information (eg, disproportionality rates and complaints received)

Independent scrutiny

Code A of the Police and Criminal Evidence Act (PACE) 1984 requires forces – in consultation with their PCCs or equivalents – to make arrangements for search records to be scrutinised by community representatives and to explain use of powers at local level. In addition, where there is a legitimate need and appropriate safeguards are in place, forces may decide to disclose other available information relating to stop and search (eg, the time/location of operations, complaints, statistics, training materials, body-worn video footage and plans/strategies) to community representatives for scrutiny purposes.

Forces typically use scrutiny panels to fulfil this requirement, though specific arrangements can and do vary depending on available resources and the scope for them to be integrated with other community engagement activities and wider scrutiny processes. In some force areas, PCCs or equivalents have helped facilitate scrutiny arrangements (eg, recruiting panel members to help ensure their independence). Whatever arrangements forces and/or PCCs or equivalents adopt, independent scrutiny should:

- enable effective auditable community oversight
- allow dialogue and challenge
- inform changes to local policies, procedures and practices (where appropriate)

Forces and/or PCCs or equivalents will need to consider whether their scrutiny arrangements are proportionate to the scale, strength and nature of communities' concerns about stop and search, and crime, bearing in mind that different communities may have differing perspectives and that their concerns:

- may not relate to how frequently police powers are used
- could be multifaceted (eg, about race disproportionality, strength of grounds, effectiveness and quality of interactions)
- are unlikely to be raised through engagement or result in people making complaints because of a lack of trust of the police and/or wider system

Only once forces and/or PCCs or equivalents have effective engagement will they know the nature of communities' concerns and assess whether scrutiny is proportionate.

The following principles – framed specifically in terms of force scrutiny panels – can be applied to any independent scrutiny process introduced by forces and/or their PCCs or equivalents for stop and search (eg, independent advisory groups).

- **Representative** – Forces should consider the extent to which the composition of scrutiny panels reflects the diversity of their local areas (eg, age, ethnicity, gender and social class) and be proactive in ensuring sufficient representation from socially marginalised groups and those most affected by stop and search (eg, young people, people from black and minority ethnic groups). The process for recruiting members to the panel should be transparent. If there are gaps in panel membership, it may be appropriate for forces to use other engagement methods to ensure the views of underrepresented groups are heard and taken into account. Forces may need to:
  - o carry out community mapping exercises
  - o target the recruitment of panel members from underrepresented groups
  - o monitor attendance levels at panel meetings
  - o vary the timing and location of meetings to make it easier for people from underrepresented groups to attend
  - o consider alternatives to formal meetings if they discourage attendance (eg, social media, visits to focal points for different communities)
  - o take steps to overcome any barriers to engagement
  - o understand the reasons why panel members stop attending
  - o ensure the results of other community engagement activities inform the work of scrutiny panels

  Forces are also required, under the public sector equality duty (section 149 of the Equality Act 2010), to have due regard to the need to:
  - o eliminate discrimination
  - o advance equality of opportunity
  - o foster good relations between different people

- **Independent** – Scrutiny panels should ordinarily be chaired by someone independent of the police (ie, someone from the community rather than a serving or former police officer or staff member), unless there is a good reason why this is not possible. The process for appointing chairs should be transparent, as should their period of tenure. The membership of scrutiny panels will need to be renewed periodically to help ensure they maintain a critical distance from the police. Any potential conflicts of interest that could lead to the independence of panels being brought into question should also be registered and, if necessary, mitigated.

- **Purposeful** – Scrutiny panels should have clear aims, responsibilities and terms of reference. Scrutiny should ordinarily focus on the issues that are of greatest concern to local communities (eg, searches of children or vulnerable people, race disproportionality, grounds or authorisations for searches, the quality of interactions and effectiveness). It should also be clear how scrutiny panels relate to any other community oversight groups convened by the force and/or its PCC or equivalent and the wider governance processes around stop and search.

- **Supported** – Forces should provide support to scrutiny panels so they have the capacity, capability and confidence to fulfil their stated aims. This should ordinarily include the provision of relevant information (eg, statistical data, supporting explanatory notes and search records) as well as lay observation opportunities (eg, of operations likely to involve stop and search or where 'no suspicion' searches have been authorised). Forces may also decide it is necessary to provide additional support to chairs and panel members (eg, training on the law, how to interpret data and the complaints process, and administrative support) for panels to function properly. Forces may also need to make reasonable adjustments for members to participate fully.

- **Influential** – Panel members can reasonably expect to effect change in forces' policies, procedures and practices on stop and search by engaging in constructive oversight, dialogue and challenge. This may be made more likely by the involvement of senior police leaders in the work of scrutiny panels. To ensure community ownership of the scrutiny process, members should be able to exert influence over the agenda. They should also feel able to discuss with forces what information they would like to scrutinise and how that information is selected and presented. Forces should consider all reasonable requests, and provide an explanation if they are unable to fulfil any (eg, on cost or legal grounds). Forces should allow panel members to voice any concerns about stop and search which should include an agreed policy and process, (contained within the terms of reference), for raising matters of concern relating to potential misconduct with professional standards departments for assessment by the appropriate authority. The views of panel members and any recommended actions should be recorded in an auditable way (ie, meeting minutes). The police should also establish mechanisms for reporting back to the panel any action they take in response, and recording the results of these actions. Where no action is taken, forces should explain why.

- **Transparent** – Forces should be open with the wider general public about the purpose, membership and work of scrutiny panels, and be able to provide a well-evidenced explanation for the scrutiny arrangements that they have adopted (eg, their nature and extent). This could involve, for example, publishing information about the panels on forces' websites (eg, terms of reference, minutes), holding some panel meetings in public (with the necessary safeguards) and communicating the work of the panel to those most likely to be searched.

- **Confidential** – Scrutiny panels must operate in accordance with the GDPR and ensure personal data relating to police officers and members of the public remain secure. Forces may share personal data with scrutiny panels if it is necessary and proportionate for them to do so to fulfil a legal requirement, provided that appropriate safeguards are in place. Forces are advised to carry out a data protection impact assessment (DPIA) before doing so. In some circumstances, it may be appropriate for forces to agree data sharing protocols with scrutiny panels, ask members to sign non-disclosure agreements and/or share anonymised stop and search records. Where forces and PCCs or equivalents both play a role in the management of

scrutiny arrangements, their responsibilities in respect of the processing of personal data should be made clear.

<u>Scrutiny of body-worn video camera footage</u>

Forces that have introduced body-worn video cameras (BWVC) should have policies for their use consistent with guidance from the [Information Commissioner's Office](). These policies should specify whether the recording of stop and search encounters by officers is required (and, if so, under what circumstances and any exemptions) and how the resulting footage is to be processed.

It is for forces to decide whether to allow scrutiny panels to review footage of individual stop and search encounters (where such footage is available). Such footage may have particular value as the only realistic option for scrutiny panels to review how stop and search is carried out by officers. Special care is required by forces when sharing this footage because of the risks to individuals whose data is being disclosed. Forces must only disclose specific pieces of footage if they have a legitimate basis for doing so and put appropriate safeguards in place.

If forces wish to share body-worn video footage with scrutiny panels, they are advised to liaise with their data protection officers – prior to sharing any data – to:

- carry out DPIAs
- ensure related policies are in place that set out, for example, the reasons when it would be (in)appropriate to share footage, the risks involved and the safeguards to help mitigate them
- develop procedures consistent with the DPIA and related policies

When forces carry out their DPIAs and/or develop policies and procedures, they should consider the following questions prior to sharing any footage and document their responses as appropriate:

- What is the purpose of, and justification for, sharing the footage?
- What are the likely costs and benefits of sharing the footage?
- With whom is the footage to be shared and does it raise any particular sensitivities (eg, because of the age or the person viewing it)?
- Which specific footage is to be shared, why, and does it raise any particular sensitivities (eg, because of the vulnerability of those involved)?
- What actions are to be taken to prevent, or in reaction, to:
  - panel members reviewing footage involving someone they know or recognise
  - unauthorised access to the footage (eg, use of secure rooms, limiting the number of people who view the footage)
  - personal data and other sensitive information being shared outside the scrutiny group (eg, restricting note-taking and the use of recording devices, asking panel members to sign non-disclosure agreements)
  - the unnecessary intrusion into people's privacy (including of the people searched, police officers and other parties)
  - secondary trauma resulting from panel members viewing the footage?

Lay observation

The <u>Best Use of Stop and Search Scheme (BUSSS)</u> requires participating forces to provide opportunities for members of the public to accompany police officers on patrol. Forces should also consider allowing members of the public to observe operations during which

stop and search powers are expected to be used or when 'no suspicion' searches are to be authorised (but only when it is safe for them to do so). While there may be few opportunities for them to observe stop and search being practiced on patrol, lay observation provides an opportunity for forces to increase their transparency, improve public understanding of policing and identify areas for improvement. Forces should seek to mitigate any risks associated with local vetting policies restricting access to lay observation opportunities (eg, among those most likely to be affected by stop and search).

Forces should proactively seek feedback from members of the public who participate in lay observation. Any feedback should ordinarily be shared with scrutiny panels for them to consider. Each force should complete their own risk assessment for any person on patrol under the lay observation scheme. The scheme should be open to young people subject to risk assessment, which may restrict the nature of the activities in which they can participate.

Complaints

The BUSSS requires participating forces to have community complaints trigger policies. These policies should set out the volume or nature of complaints about stop and search at which the police must explain its use of stop and search powers to scrutiny groups.

Forces are required to involve local communities (eg, scrutiny panel members) in the development of their policies, such as discussing with them the volume or nature of complaints that would be an appropriate trigger for the process. Where complaints are particularly low or forces wish to achieve a maximum level of transparency, they may consider treating every complaint as a trigger for police explanation and community scrutiny.

Forces should develop and publish a policy that:

- ensures individuals who are stopped and searched are made aware of the complaints trigger, and how and where to complain (eg, by including the relevant information on stop and search receipts)
- sets out a straightforward and accessible complaints process
- introduces a threshold above which the police must explain their use of stop and search, primarily to local community groups responsible for scrutinising the use of stop and search

For the complaints trigger to be effective, forces may need to ensure that complaints resulting from stop and search are identifiable on their systems.

Some people may find it difficult or be reluctant to engage with the police directly for a variety of reasons. In recognition of this, forces should consider identifying and raising awareness (eg, on their websites) of groups or organisations working locally who can provide support, advice or advocacy to people wanting to complain.

References

- [College authorised professional practice on stop and search](#)
- [College authorised professional practice on community engagement](#)
- [College advice on independent advisory groups](#)
- [College guidelines on neighbourhood policing](#)
- [College rapid evidence assessment on neighbourhood policing](#)
- [College rapid evidence assessment on community engagement in policing](#)
- [Criminal Justice Alliance briefing on scrutiny panels in stop and search](#)
- [HMIC thematic inspection report on stop and search 2013](#)
- [HMIC thematic inspection report on stop and search 2015](#)

- [HMICFRS PEEL police legitimacy inspection 2017](#)
- [National statistics on police powers and procedures](#)
- [Police and Criminal Evidence (PACE) Act 1984 – Code A](#)