



College of Policing



HMIC Recommendation 1 from “Stop and search powers 2: are the police using them effectively and fairly”? (2015)

Definition of a fair and effective stop and search encounter

This definition has been subject to broad consultation with police officers and staff, members of the public, stakeholders, campaign and monitoring groups.

A stop and search is most likely to be fair and effective when:

- *the search was a justified and lawful use of the power that stands up to public scrutiny;*
- *the officer genuinely believes the person has an item in their possession;*
- *the member of the public understands why they have been searched and feels that they have been treated with respect;*
- *the search was necessary and was the least intrusive method a police officer could use to establish whether a member of the public has a prohibited article or an item for use in crime with them and*
- *more often than not the item is found.*

Introduction

Police officers meet, chat and informally advise members of the public thousands of times every day. This is the nature of effective community policing and highlights our tradition of policing by public consent.

There is a distinction to be made between an informal chat and where police officers are seeking information about a person’s whereabouts, intentions or where the officer suspects the person is, has been or is about to be involved in unlawful activity. The generic name for these encounters is stop and search, even where a physical search doesn’t actually take place. The public tend to include traffic stops in this same category.

The primary purpose of stop and search powers is to enable officers to allay or confirm suspicions about individuals carrying unlawful items, without exercising their power of arrest, where the officer has reasonable grounds for carrying out a search.

The primary role of the police is to uphold the law and maintain the Queen’s peace. Unfair, unlawful or unnecessary stop searches make this task harder with one of the direct consequences being a reduction in public trust and police legitimacy, and people being more likely to break the law and less willing to cooperate with the police.¹ It also has an adverse impact for the establishment of a Police Service that is reflective of the people it serves.

¹ See: Jackson, J., Bradford, B., Stanko, E. A. and Hohl, K. (2012) Just Authority? Trust in the Police in England and Wales. Oxford: Routledge; and Myhill, A. and Quinton, P. (2011) It’s a Fair Cop? Police Legitimacy, Public Cooperation, and Crime Reduction. An Interpretative Evidence Commentary. London: NPIA.

All stops and searches must be carried out in line with the rules set out in Code A of the Police & Criminal Evidence Act 1984 and in accordance with the principles provided by the Police Code of Ethics: accountability, fairness, honesty, integrity, leadership, objectivity, openness, respect and selflessness. All 44 police forces in England and Wales have voluntarily signed up to the Home Office Best Use of Stop & Search Scheme, agreeing to provide more accountability around data recording, raising the level of authority required for 'no suspicion' stop search powers (Section 60). They have also committed to providing more transparency regarding community scrutiny of complaints and provide opportunities for members of the public to observe police patrol activity on force 'ride-along' schemes.

Guidance Notes

Stop and search refers to encounters where a search actually takes place.

Understanding why the person has been searched is supported by the mnemonic GOWISELY. Officers must comply with all elements of GOWISELY:-

- a. **Grounds** for search – a clear explanation of the officer's grounds for suspicion
- b. **Object** of search – a clear explanation of the item(s) the officer is looking for
- c. **Warrant** card (if not in uniform or requested)
- d. **Identity** of officer – the officer's name and number
- e. **Station** to which the officer is attached
- f. **Entitlement** to a copy of the search record (i.e. within 3 months)
- g. **Legal** power used
- h. **You** are detained for the purposes of a search

Section 117 of PACE provides officers with the power to use 'reasonable force' where necessary when they are carrying out a stop search. Any force used must be reasonable, in line with the principles set out in Section 3 of the Criminal Law Act 1967 i.e. reasonable in the circumstances to prevent crime, such as an assault on the officer. Officers must not routinely handcuff people in order to carry out a stop search and must judge each case on its merits in line with the conflict resolution model, justifying any use of force. All persons stop searched must be informed that they are 'being detained for the purposes of a search' so as to activate Sec 117 powers to use force, should they be justified and necessary in that circumstance.

Treated with respect. The person stopped should be treated with courtesy, consideration and respect, and the search should cause as little embarrassment as possible. Officers must consider vulnerability due to age, mental ill-health or disabilities.

Officers must be sure not to use their powers in a discriminatory way, either consciously or as a result of any unconscious bias. For example the person's gender, race, religion, age, or the fact that they have a previous conviction cannot be used as a reason for stopping and searching them. If information describes a person's specific appearance then this may factor into the officer's decision-making but generalisations must not be used.

Justified and lawful. The reason the person has been searched is that the police officer has specific information that the person is carrying stolen property, a weapon, illegal drugs or something which could be used to commit a crime. Searches should not be speculative. They should not be based on a hunch, 'gut feeling' or purely operational experience. Officers must have extremely strong suspicion that the person is carrying the item.

Public Scrutiny. All forces should have forums and processes in place that allows members of the public to hold the Chief Constable to account for the use of stop search powers. Arrangements for public scrutiny of records should take account of the right to confidentiality of those stopped and searched. Anonymised forms and/or statistics generated from records should be the focus of the examinations by members of the public. The groups that are consulted should always include children and young persons.

Least intrusive. Officers must consider alternatives to carrying out an actual search. This includes simply having a conversation with the person or asking the person to account for their whereabouts or actions, without going on to search. Officers should also give the person the opportunity to hand any item(s) over which may mean that a subsequent search is not necessary. The officer's approach must consider the prevention of embarrassment and maintaining the dignity of the person searched.

Genuinely believes. The start point is such that the officer considers that they should arrest the person based on their reasonable, objective suspicions and searching for the item will in fact prove those suspicions. There is a legal test for such grounds, which is in two parts. Firstly, the officer must have formed a genuine suspicion in their own mind that they will find the item(s) for which the search power being exercised allows them to search; and secondly the officer's suspicion that the item(s) 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 item(s) 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.

An item is found. This includes the specific item(s) being searched for and also includes any other illegal item(s) that is subsequently found (but see 'justified and lawful, above, re no speculative searches).

Detailed legal guidance is contained within [Code A](#) of the Police & Criminal Evidence Act 1984.

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