

Feedback form for consultation Authorised professional practice (APP)– Stop and search (31 March – 15 May 2016)

Please complete electronically using MS Word and return by **15 May 2016**.

Notes on Use: Please add any comment or suggested change under the corresponding question or heading. Please note that formatting anomalies may occur in the online document when viewing in different browsers. In view of this, please focus your comments or suggested changes on areas that will have policy, procedural or other specific content impact.

Whilst reviewing this draft, please consider:

- Is the length and content appropriate?
- Is it easy to understand?
- Is there any information missing or should anything be removed?
- Is there any unnecessary repetition?

We are particularly interested in responses to the **specific questions** at the start of this template. They can also be found online, with hyperlinks to the relevant sections.

The template is intended to help you to structure your comments. You may provide as much, or as little, feedback as you wish. There is no requirement to complete every section. Please provide your answer in the comment box under the relevant section/sub-section.

When finished please, email completed document to: [Stop and search feedback](#)

If you have any questions regarding the completion of this form, please e-mail [Stop and search query](#)

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Position Held:	Policy and Communications Co-ordinator
Organisation:	StopWatch
Completion date:	13/5/2016

Consultation questions

1. Do you find the APP easy to follow and understand? Please give reasons for your answer.

The APP was clear and straightforward, the potential problem of users being overwhelmed by the large amount of information is addressed well in the summaries at the end of sections, which highlight key points and encourage officers to question their own actions and thoughts.

2. Does the APP adequately draw out the role of senior leaders and supervisors in achieving consistently fair and effective stop and search? Please give reasons for your answer.

This section would be improved by stating more clearly who, if any of these senior leaders and supervisors, is accountable for decision-making and takes responsibility for mistakes in training, policy and practice.

3. Are the decision-making tools useful? How could they be improved? Please give reasons for your answer.

The decision-making tool is a useful and practical reference point for officers using this manual. However, there are a two issues:

- 1) In “Decision-making tool: fair decision making”, officers are encouraged to ask themselves whether they are “influenced by their physical appearance... previous convictions... negative assumptions because they belong to a particular group... a feeling I cannot explain”. First, the word “group” should be substantiated – ethnicity, class, age or some other characteristic, would make this clearer. Secondly, the officer is instructed that this should not be “the **only** reason that you want to stop and search the person” when in fact, it should not constitute **any** of the reasons for stopping and searching a person (unless it fits a description).
- 2) In “Decision-making tool: fair decision making”, under the sub-heading “Asking questions to help decision making” it would be useful to point out that refusing to answer questions is not grounds for suspicion, or further suspicion.

4. What information do you think should be included under Further information? Please provide details, including web-addresses or hyperlinks if possible.

5. What specific scenarios relating to reasonable grounds for suspicion would you like to see examined if a section on scenarios is to be added?

When an officer claims to smell cannabis in an area in which an individual or group of individuals are located.

When an officer considers conduct at a major rail station to be suspicious vis-à-vis terror-related offenses e.g. walking between different entrances for no discernable reason

When grounds for suspicion exists for an individual but a whole group is searched.

When an individual lawfully refuses to answer questions, and asks a number of questions of the officer which could be interpreted as a disruption to the stop and account/stop and search

6. Do you agree with the fair and effective definition? Please give reasons for your answer.

The fair and effective definition would be improved by including a provision that stop and searches should lead to the uncovering of an item, linked to a **priority crime, more often than not**. Including “more often than not” in the definition would encourage officers to employ intelligence-led methods, rather than ‘fishing’ for items, targeting vulnerable people (e.g. teenagers) for non-priority offenses such as cannabis possession and help senior officers to monitor the fairness and effectiveness of these powers more closely. This recommendation was put forward by the scrutiny group, which is open to advocacy groups (including StopWatch) and members of the public. While we all agree that the scrutiny group can play an important role, we are very concerned that we are becoming a box ticking exercise that creates an illusion of oversight and scrutiny, rather than our concerns actually effecting policy formation. The inclusion of “more often than not” in the guidance of stop and search is particularly important, not only because an agreement was reached by the SSSSG that it is included, but that its inclusion can play a vital role in dissuading the misuse of the power. The provision was not considered to be a strict rule dictating outcomes, rather than guidance as to what officers should be aiming for.

7. Are the two ‘Human rights focus’ information boxes useful? Please give reasons for your answer.

Under “necessary in a democratic society” the final clause of this sentence is confusing: “A state action, including action by the police, which restricts individual rights must not only be prescribed by law, but also necessary in a democratic society”. This section is useful, but may be undermined if the Human Rights Act is repealed.

8. Is the new requirement to seek an inspector’s authority for an EIP search clearly explained? Do you agree that this is an important step in reinforcing fair and effective stop and search practice? Please give reasons for your answers.

While seeking an inspector’s authority for an EIP is an important and progressive step towards greater oversight, there are some questions remaining. How are MTSs and EIPs recorded? We would argue that use of these powers, like other searches, should be recorded under the same guideline as Code A of PACE.

How is the data on MTSs and EIPs made available to the public, and how will incidents in which these powers are misused be dealt with? We would argue that such data should be regularly published, so that members of the public, advocacy groups and elected officials can hold individual police forces to account, as well as senior officers holding their own staff to account.

9. Do you agree that the record for a section 60 CJPOA search should include the reason why the search of the individual is connected to the purpose of the authorisation, to enable monitoring to ensure people are not stopped and searched under section 60 for reasons unconnected with the authorisation? Please give reasons for your answer.

We agree that a record for section 60 CJPOA searches should include the reason why the search on the individual is connected to the purpose of the authorisation for a number of reasons. First, there have been concerns that officers are not aware of the specific reason for a section 60 being implemented, thus leading to arbitrary, ineffective and often discriminatory stop and searches. Secondly, [the findings from Operation Blunt 2](#), carried out by the Home Office, found that the use of section 60 powers during this operation have been wholly ineffectual, indicating that such powers have been grossly misused. Thirdly, the lack of data relating to the given reason for stop and

searches during Operation Blunt 2 (and other initiatives that use section 60 powers), means that we are unable to make practical, evidence-based steps to remedying the specific failings of this power.

10. Is the statement on body-worn video strong enough or should the APP say that all searches should or must be recorded if a camera is available? Please give reasons for your answer.

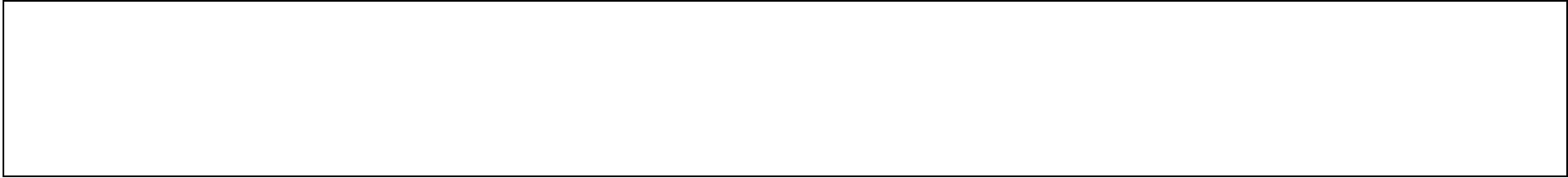
Body cameras can, if used correctly, provide officers and the public with a more accountable, transparent and safe service. While judges and juries generally side with the testimony of police witnesses, body cameras worn by officers provide a safeguard to this bias for members of the public. It is therefore vital that body cameras are worn and switched on for the entirety of an officer's interaction with an individual, rather than a selection of an interaction, which can be misleading and therefore serve more harm than good as an evidence-gathering tool. However, if such devices are used, it is paramount that safeguards are put into place for their usage. Officers should not have the power to delete footage completely – all footage should be backed up on an independent server, and any attempts at deletion should be recorded and scrutinised. Furthermore, failure to fully record an incident which leads to a complaint from a member of the public, or significant harm to a suspect, should be treated with the same suspicion and disciplinary proceedings as a search or arrest which is not recorded, but results in harm or another complaint from a member of the public.

Additional consultation content for consideration

This additional content for consideration is available on the online consultation questions page.

- Do you agree with the approach adopted by APP to the recording of RTA and PRA encounters?
- Should ethnicity be made a minimum mandatory requirement for both types of encounter rather than a discretionary requirement?
- Should the minimum mandatory requirements go beyond this?

Please give reasons for your answers.



1. Fair and effective stop and search

Comment or suggested change

1 What do we mean by stop and search?

The section on the Road Traffic Act requires updating, in order to make it clear that these powers should fall under Code A of PACE. The reasons for collecting this data should remain, with the addition that this change will improve transparency – a necessary requirement for a fair and effective traffic stop.

While PRA powers for PCSOs to search for and seize alcohol are not covered by Code A if PACE, we recommend that such provisions are included in the guidelines. This will improve transparency, and provide the opportunity for senior officers, the public and advocacy groups to scrutinize the fairness and effectiveness of this power – such oversight is particularly urgent given that this power is being used by very junior officers, upon children, who are often more vulnerable than adults subjected to these powers.

2 When is stop and search used?

This section is useful, but the first sentence of the fourth paragraph could be improved. This section reads: “Police interaction with the public can have a restrictive effect on individual rights”. This phrase would be improved by being more specific to the topic at hand: “Police stop and searches have a restrictive effect on the individual liberty of the person in question”. Such phrasing, while being more accurate, also underscores the seriousness of this power, and the importance of it not being used arbitrarily, or casually.

3 Why does it matter how the police use stop and search?

In the second sentence of this section, users are warned that “unlawful, unfair and/or unnecessary use can have negative consequences that make the police’s job harder”. This phrase would be improved if it also noted that misuse of this power can also cause alarm or distress to members of the public – such phrasing would signify to the user that misuse of stop and search powers may constitute an unlawful act on the part of the officer.

Under the “Value of using the powers appropriately” subheading, the third paragraph lists the conditions of public support for stop and search. Adding “accountability following misuse of power” as one of these conditions would improve this section, as it is a feature often raised by individuals and community groups.

Under the subheading “Consequences of misusing the powers”, the second paragraph would be clearer if an explanation of “control measure” was provided.

The following paragraph covers the effects of disproportionality upon black and minority ethnic groups. While disproportionality does effect perceptions, such racialized outcomes, even if they are not brought about through consciously racist intentions, is still evidence of institutional racism. Furthermore, disproportionality also has negative effects on the perceptions of officers, as it can reproduce a culture which uses stop and search powers in a manner which is unfair and ineffective.

4 What is fair and effective stop and search?

As stated above, the fair and effective definition would be improved by including a provision that stop and searches should lead to the uncovering of an item, linked to a **priority crime, more often than not**. Including “more often than not” in the definition would encourage officers to employ intelligence-led methods, rather than ‘fishing’ for items, targeting vulnerable people (e.g. teenagers) for non-priority offenses such as cannabis possession and help senior officers to monitor the fairness and effectiveness of these powers more closely.

Identifying a fair and effective stop and search would also be improved by identifying that effective stop and searches should be intelligence-led, and target priority crimes. This would respond to the failings of stop and search, the majority of which are used upon innocent members of the public, or uncover small amounts of cannabis, indicating that the power is being used in a manner which is not following reliable intelligence, or targeting priority crimes such as serious youth violence.

1.1 Fair decision making

Comment or suggested change

1 Why does fair matter?

2 What does fair mean in the context of stop and search?

2.1 It is never appropriate to stop and/or search a person on the basis of personal factors

Under “In practice this means that an officer cannot”, the first bullet point’s example is quite weak, and based on a flawed notion of how decision-making and racism – this could be improved by using specific examples e.g. dress associated with a specific religion or faith.

The second bullet point should not include the phrase “just because”, as deciding to stop and search someone due to previous offenses is illegal under PACE.

In fact, this section is totally focused on individual bias and fails to adequately understand officer decision-making in practice. Officers rarely search someone “just because” of their physical appearance or “just because” they have a previous conviction (which is unlawful). In reality, decisions are more often made on a confluence of factors – so officers might use someone’s ethnicity, the fact they are wearing baggy clothing and in a “high-crime” area – this is stereotyping, but linking a number of ideas together which can create the impression of reasonable suspicion. More meaningful examples would therefore help reflect the realities of officer’s thinking and experiences, in order to better operationalize ideas of fairness.

The third bullet point makes reference to officers not stopping a person because they live in a particular location. This requires clarification, as initiatives such as Operation Blunt 2, and Section 60s target specific areas. Implicit in these approaches is the criminalization of specific

areas, and by extension, the people who live there. In order to strengthen this guidance, reference should be made to noting the specific reason for a Section 60, or geographically specific operation in order to account for this.

2.2 The decision to stop and search a person must be based on objective factors

2.2.1 Reasonable grounds for suspicion

2.2.1.1 Reasonable grounds for suspicion based on information or intelligence

Under the “Gangs” subheading, reliable intelligence includes “members of the group or gang are known to carry prohibited items”. Extensive research has been carried out on how police forces identify gangs and gang members, which raise significant problems relating to disproportionality and effectiveness. First, research from Patrick Williams and Becky Clarke (<http://www.crimeandjustice.org.uk/sites/crimeandjustice.org.uk/files/Dangerous%20associations%20Joint%20Enterprise%20gangs%20and%20racism.pdf>) found that, rather than the crimes associated with gangs corresponding with individuals identified as gang members, the designation appeared to be arbitrary. The findings also found that BME people were significantly more likely to be identified as a gang member, and that racial disproportionality guided people being identified as gang members, more than involvement in relevant offenses. Secondly, there appears to be very vague, and subjective criteria for who is identified as a gang member. Some sources consider any individual who is considered to be a gang member by themselves, a member of the public or any police officer, a gang member. This increases the likelihood of racial disproportionality. Given these continual problems, we recommend that the designation of “gang” is not used as a positive criteria for stop and search in this guidance.

2.2.1.2 Reasonable grounds for suspicion not based on information or intelligence

Stops and searches which are not intelligence led is one of the major factors leading to the misuse of this power.

2.2.2 Applying no suspicion powers in an objective way

We do not consider it possible to employ ‘no suspicion’ powers in an objective way – indeed, the notion that such powers can be used objectively, without reasonable suspicion, is self-defeating. If, as the guidance stipulates, an officer’s suspicion is raised due to a person’s behavior, how can non-suspicious behavior lend them to objectively raising suspicion? The short answer is, it cannot, and the ineffectiveness, and racial disproportionality that marks this power, is testimony to this.

2.3 Biases in decision making should be recognised and challenged

This section makes no mention of institutional racism – it is therefore implicitly directed at front line officers, rather than more senior officers, who make decisions relating to targeted initiatives (e.g. Operation Blunt 2) and other Section 60s, which are also affected by bias.

In the third paragraph of this section, the user is told that unconscious bias is influenced by their experiences and background. It would be useful to mention that it is also influenced by the characteristics which society attributes to people from certain groups (e.g. people who appear African Caribbean to be drug users), and our own social position often frames other people as ‘different’ to us, and therefore sharing particular characteristics or stereotypes.

3 Decision-making tool: fair decision making

The decision-making tool is a useful and practical reference point for officers using this manual. However, there are two issues:

- 1) In “Decision-making tool: fair decision making”, officers are encouraged to ask themselves whether they are “influenced by their physical appearance... previous convictions... negative assumptions because they belong to a particular group... a feeling I cannot explain”. First, the word “group” should be substantiated – ethnicity, class, age or some other characteristic, would make this clearer. Secondly, the officer is instructed that this should not be “the **only** reason that you want to stop and search the person” when in fact, it should not constitute **any** of the reasons for stopping and searching a person.

2) In “Decision-making tool: fair decision making”, under the sub-heading “Asking questions to help decision making” it would be useful to point out that refusing to answer questions is not grounds for suspicion, or further suspicion.

1.2 Legal basis and application

Comment or suggested change

1 Why does legal matter?

Legal matters because it is the primary, and most powerful mechanism available to the public, for holding the state, and its agents (in this case, the police), to account.

2 What does legal mean in the context of stop and search?

Legal, in the context of a Stop and Search, means officers informing the person being stopped of why they are being stopped, and the details of the officer(s) involved. It involves officers giving a full, clear and honest response if the member of the public in question asks if they are being detained or free to leave.

1.2.1 Legal basis

Comment or suggested change

1 Human rights focus: in accordance with the law

2 Powers requiring reasonable grounds for suspicion

2.1 Section 1 PACE

While this section is clear, it would be improved by including a provision for helping officers and the public for protection against points, blades or fireworks not being wrongly/unlawfully interpreted as being used to carry out an offense.

2.2 Section 23 MDA

This section is very comprehensive, but would be improved with a mention of racial profiling/disproportionality, both in terms of its use on black people, and data showing that black people are not more likely to use drugs than their white counterparts.

2.3 Other stop and search powers

3 Powers requiring the existence of preconditions

3.1 Section 60 Criminal Justice and Public Order Act 1994

The guidance stipulates that: "If a force uses the power outside the terms of the [BUSSS] scheme, it must inform the Home Office and the public". How will the public be informed of this? We recommend that there should be a provision for it to be published on websites, social

media updates, disseminating information in schools, colleges, places of worship and community centres, in addition to a commitment from officers to verbally inform members of the public they encounter.

3.1.1 What are section 60 powers?

The document is still unclear on section 60 – both on effectiveness and how officers should operationalize it once an authorization has been given. I think this is because there isn't agreement on what it is for, what effectiveness would look like and through which mechanism it is effective. In other words, is it detection or prevention, what would does this look like?

The guidance also does not solve the issue of targeting – if the objective of Section 60 is prevention, then shouldn't it be random within a defined area as its about deterring people. But if detection is linked to specific intelligence, then it needs to be targeted. I think this lack of clarity can cause further confusion among officers

3.1.2 Senior officer authorisation

There is reason to believe that officers are often unaware of the specific reason for a public order authorization. This could be improved by the guidance specifically stipulating that officers have a responsibility to be fully aware of the specific details of a Section 60, and refer to it in their record keeping, as well as their interactions with the public.

3.1.3 Officer use of section 60 powers

Removal of face coverings: On what grounds can it be decided that members of the public are not allowed to conceal their identity? It would be useful to include some legal guidance on the extent to which this power hinders the right to privacy and autonomy in a public space.

StopWatch have found that racial disproportionality increases significantly when reasonable grounds for suspicion is no longer needed – a further reason to better-regulate the use of these powers.

3.2 Powers to search persons when searching premises

Officers should be reminded that members of the public are permitted to film/photograph officers during the search of premises, and may also take notes on the search, to be used as evidence in court – officers should in no way obstruct the use of this evidence collecting.

3.2.1 Section 139B Criminal Justice Act 1988

3.2.2 Section 23(3) Misuse of Drugs Act 1971

4 Powers akin to stop and search

There are a number of recommendations to be made for the section discussing searches and offences related to psychoactive substances, as it is not unlawful to possess these for personal use. Many psychoactive substances come in a form similar to drugs controlled by the Misuse of Drugs Act (eg. a white powder), and so it is difficult to differentiate and identify something on sight alone. If an officer sees an individual with a small amount of white powder and suspects possession only, a search would have to be conducted under Misuse of Drugs Act (MDA) or PACE search powers. This would not necessarily be unreasonable in the circumstances, but it would be difficult to ensure that it would be fair and effective if the person claims that the powder is a psychoactive substance. The officer is unlikely to accept that claim, and would require the substance to be tested. In the meantime, the individual is likely to be arrested on suspicion of a controlled drug, and taken to the police station. There is a real risk of increased numbers of people, especially young people, being brought into the criminal justice system in this way, even if ultimately no further action is taken.

The issue is further complicated by uncertainty amongst officers about the amount of a psychoactive substance that would constitute personal use, or supply. Whilst there is no fixed threshold for supply offences of drugs under the MDA, there is much more knowledge and experience about what might traditionally be an amount associated with personal use so an officer can make an informed decision. This situation may lead to a stop and search where the officer suspects supply or intent to supply of a psychoactive substance, which the officer is permitted to do under the Psychoactive Substances Act, and subsequent arrest and detention. This will potentially result in people facing more serious charges than is warranted, at least in the initial stages, and having to mount a defence against this. Within the circumstances described the Psychoactive Substances Act will undoubtedly lead to more people being brought into the criminal justice system through stop and search for something which is not an offence, which raises concerns regarding how proportionate the decision to search is.

To limit the number of people being unnecessarily brought into custody, we recommend that if an individual claims that a small amount of unidentifiable substance is a psychoactive substance, then they are given street bail, while the item is tested at a laboratory. We further

recommend that officers have an adequate supply of street bail forms as anecdotally we are aware that availability of these forms impacts on their decision for how to proceed.

It is unclear how drugs can be effectively policed given the ambiguity vis-à-vis psychoactive substances. This power therefore requires close monitoring that will record and consider:

- The extent to which policing psychoactive substances affects overall rates of stop and search, by disaggregating drug searches
- What proportion of cases where someone is initially stopped and searched for possession of a controlled drug under the MDA, are subsequently found to be psychoactive substances and results in no further action being taken because it is clearly personal possession
- What proportion of cases where someone is initially stopped and searched for supply offences relating to psychoactive substances, are subsequently found to be psychoactive substances and results in no further action being taken because it is deemed to be personal possession

This will enable officers, forces, policy-makers and the public to get a clearer picture of how fair and effective the powers used to stop and search individuals for drug offences are, and identify areas for reform moving forward.

4.1 Vehicle stops under section 163 of the Road Traffic Act 1988

This section requires updating, as the guidance of Code A of PACE should now be applied to traffic stops, according the recommendations from the Home Office.

4.2 Police Reform Act 2002 powers to search for and seize alcohol and tobacco

One of the findings/recommendations of the Lawrence Report was that police officers can never use consent searches. This led to PACE being reformed, which now states:

PACE Code A (2003) was issued under section 66 (a)(i) of the Police and Criminal Evidence Act 1984. It was laid before Parliament on 11 November 2002 and brought into force in April 2003 by SI 1995/450. The current version of the Code (2015) in force states the following:

“1.5 An officer must not search a person, even with his or her consent, where no power to search is applicable. Even where a person is prepared to submit to a search voluntarily, the person must not be searched unless the necessary legal power exists, and the search must

be in accordance with the relevant power and the provisions of this Code. The only exception, where an officer does not require a specific power, applies to searches of persons entering sports grounds or other premises carried out with their consent given as a condition of entry”

It is even more worrying that such a provision is now being given to PCSOs. This is compounded by the fact that this power is being directed at children – due to the power imbalance between a uniformed officer and a child, we would argue that it is impossible for an officer or PCSO to get consent from the child being searched. It is unclear how these encounters/use of powers are recorded. If there is not an obligation, officers should be encouraged to record the details of this power’s usage – transparency is particularly important in regards to this power, as it is used on, often vulnerable, children.

The guidance also fails to stipulate whether the member of the public subjected to this power receives a receipt – details of the powers usage should be put in writing and given to the member of the public in question – this is particularly important in the case of children, as they are less likely to understand the situation, or be in a position to challenge it’s misuse.

1.2.2 Legal application

Comment or suggested change

1 Human rights focus: necessary in a democratic society

“A state action, including action by the police, which restricts individual rights must not only be prescribed by law, but also necessary in a democratic society” – the final clause of this sentence does not make sense, suggest add “is” between “but” and “also”.

2 Most proportionate: decision to search

This is helpful guidance, but applying examples of spray paint and firearms is very straight forward, and rarely reflects the reality of what officers come across – examples involving drug possession or knife crime would be more relevant/useful.

3 Most proportionate: detention for the purpose of search

4 Most proportionate: the search

4.1 General principles

Is there a time and/or cost associated with where a person is stopped, in relation to where they are taken to be searched?

The example of a “three-foot samurai sword” is perhaps not the best example to use – perhaps a more commonly searched for it e.g. a large amount of drugs will not be hidden in an inner breast pocket.

4.2 No more than JOG in public

The Lawrence Inquiry found that the police cannot and should not carry out consensual searches, and should therefore not ask a member of the public to participate in a search voluntarily. This led to PACE being reformed, which now states:

PACE Code A (2003) was issued under [section 66 \(a\)\(i\) of the Police and Criminal Evidence Act 1984](#). It was laid before Parliament on 11 November 2002 and brought into force in April 2003 by SI 1995/450. The [current version of the Code \(2015\)](#) in force states the following:

“1.5 An officer must not search a person, even with his or her consent, where no power to search is applicable. Even where a person is prepared to submit to a search voluntarily, the person must not be searched unless the necessary legal power exists, and the search must

be in accordance with the relevant power and the provisions of this Code. The only exception, where an officer does not require a specific power, applies to searches of persons entering sports grounds or other premises carried out with their consent given as a condition of entry”

4.3 More thorough search out of public view

This section would be improved by explicitly stating the grounds for escalating to an MTS, whether these grounds must be an addition to the previous grounds, and how they are recorded and how data is made available.

4.4 Search involving exposure of intimate parts of the body

As above, officers should be encouraged to record the details of this search, in a similar manner to the records kept on other stop and searches.

When recommending such a search is carried out in an “other location out of public view”, past consultations have found searches carried out in bus garages and other abandoned buildings. We do not consider these spaces to be safe for the individual subjected to a search – at least in police stations there is CCTV and other police staff present. The wording regarding “other location out of public view” should be more specific.

4.5 Intimate search – only post-arrest

As above, officers should be encouraged to record the details of this search, in a similar manner to the records kept on other stop and searches. Provisions should also be made for searches carried out on people with mental health problems e.g. an advocate or carer

1.2.3 Decision-making tool: legal basis and application

Comment or suggested change

1.3 Professional interaction

Comment or suggested change

1 Why does professional matter?

2 What does professional mean in the context of stop and search?

2.1 Comply with professional standards of conduct

This section would be strengthened if it included a reminder that members of the public have the right to make a complaint if an officer does not comply to the standards of professional behavior, and will be expected to account for themselves in a disciplinary procedure if a senior officer sees fit, particularly for repeat offenses.

2.2 Communicate effectively

2.3 Treat people with dignity and respect

2.3.1 Vulnerable persons

2.3.2 Children

2.4 Respond appropriately to dissatisfaction

3 Decision-making tool: professional interaction

1.4 Transparent

Comment or suggested change

1 Why does transparent matter?

The second paragraph of this section could potentially give the impression that transparency is necessary to justify the existence of discriminatory behavior – we suggest this is reworded.

2 What does transparent mean in the context of stop and search?

2.1 Accurate recording of individual encounters

As mentioned above, this section requires updating to fall in line with the recommendations stipulating that stops under the RTA should be recorded by all police forces, under the guidance of Code A of PACE.

Some police forces, such as Suffolk, record Stop and Account. This provision provides additional oversight, as recommended by the McPherson Report, which boosts public confidence. Although it is not a legal requirement, we would encourage police forces across Britain to reintroduce this measure.

2.1.1 Stop and search

2.1.1.1 The record

This section could be improved with a note highlighting that FOI requests can be made in order to make this information public, which is one of the most important reasons for the record being kept in the first place.

2.1.1.2 Mandatory details

2.1.1.3 Recording the legal basis for the search

2.1.1.4 Using BWV to record information

The wording on “standard approach” should be clearer – what is considered “relevant” information, and how this can this be (mis)interpreted by an officer?

Furthermore, the College's own evaluation of BWV showed that it wasn't effective for stop and search recording – as often the first period is missed (camera's only buffer for 30 seconds), so it is difficult to hear or see clearly what is happening during this period. I think the guidance should note these limitations, and recommend that the necessary technological fixes are made.

College's evaluation of BWV showed that it wasn't effective for stop and search recording – as often the first period is missed (cameras only buffer for 30 seconds), cannot hear or see clearly what is happening. Should be realistic about its value in this context.

2.1.1.5 Procedural requirements

The guidance around the issuing of receipts is welcomed, as we know this provision is often not followed by officers on the ground. There does not appear to be a definition of disproportionality in the document, or what policies bring it about – in other words, a definition of institutional racism is also required. These can be found in the McPherson Report.

2.1.2 Other types of encounters: local monitoring of disproportionality

2.1.2.1 Detained for search but search does not take place

2.1.2.2 Stop and account

Almost every police force in England and Wales sees disproportionate outcomes in the use of Stop and Account. Stipulating that forces do it “where there are concerns requiring local monitoring of disproportionality” implies that forces that do not record this power, have no concerns relating to disproportionality. We suggest this phrase is removed, and replaced with: “forces committed to tackling disproportionality and increasing public confidence continue to record stop and account”. In other words, the disproportionality which exists, to some degree, in every police force in England and Wales, cannot be addressed unless Stop and Accounts are recorded.

2.1.2.3 Section 163 Road Traffic Act 1988 (RTA) and Police Reform Act 2002 (PRA) powers

Proposals from the Home Office indicate that RTA Stops will come under PACE Code A provision, and therefore the following sentence should be removed:

“As the legislation current does not contain a threshold, it would be problematic to introduce a specific threshold or test”.

We therefore recommend that the same guidance provided for stop and searches, in addition to our recommendation relating to priority crimes and ‘more often than not’ (see 6), should be included in the guidance for RTA Stops.

It would be useful to, in addition to recording the ethnicity of drivers who are stopped, also record which areas police are targeting for traffic stops. We think that it is likely that police are targeting areas with disproportionately large BME populations, which may go some way to accounting for racial disproportionality. This information would aid us in understanding why areas with large BME populations are being specifically targeted, and whether such an approach is fair and effective.

2.2 Supervision and monitoring

2.2.1 Tackling disproportionality

A majority of external reference group members should also be truly independent, in other words, they should not be funded by, or otherwise connected to police

2.2.2 Monitoring at senior officer and force data level

2.2.3 Monitoring at supervisor level

2.3 Public scrutiny

Opportunities for monitoring and supervising should be made accessible to members of the public, with such provisions publicized to impacted communities and their advocacy groups.

2.3.1 Community scrutiny

2.3.2 Complaints

Forces should also make complaints easier for public through e.g. third parties (e.g. reference groups) who can support people to make complaints

3 Decision-making tool: transparent – accurate recording of individual encounters

General comments about stop and search APP

The police have the power to use force on the public and to do this with consent they have to be accountable, fair and effective. Democratic policing should seek to limit intrusion into peoples' lives to that which is absolutely necessary and should, as a matter of routine, justify and explain any such incursions.

The focus exclusively on race and defining all the issues with stop and search as to do with "explaining away" disproportionality creates a backlash from the police and allows forces with small BME communities to ignore the issues (can quote Mike's Post-Lawrence policing paper or our book). The guidance has done this for years and know it doesn't work. The framing should be about establishing positive community relations, building trust and confidence, promoting democratic accountability and establishing legitimacy. There is not enough thinking in the document about what "effectiveness" means and how you legitimise it.

Diversity impact assessment – Is there any content in the draft document which you consider would have a negative impact on any diverse group?

Section No.	Comment
