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College of Policing

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# BUSSSS 2.0

Best Use of **Stop & Search** Scheme

# Introduction

**The Best Use of Stop and Search Scheme was announced by the Rt Hon Theresa May in her statement to Parliament as Home Secretary on 30th April 2014. In recognition of the importance of stop and search in tackling crime, the Scheme's aims were to achieve more effective use of the power, help create better police and community relations, and make the job of fighting crime easier.**

The Scheme became fully operational in December 2014, with all 43 forces – with the addition of the British Transport Police – volunteering to implement the Scheme's components. Since the introduction of the Scheme and associated reforms, the use of stop and search across England and Wales has changed. The overall number of stop and searches is down, and the arrest rate is up. When the Scheme was first launched in 2014, of the 1 million stop and searches carried out under section 1 of the Police and Criminal Evidence Act 1984, 10% led to an arrest. By contrast, in 2015/16, the number of stop and searches had fallen to 386,474, of which 16% led to an arrest – the highest arrest rate on record.<sup>1</sup> And searches under section 60 of the Criminal Justice and Public Order Act 1994 – the 'no-suspicion' stop and search powers – have fallen by 82% over the same period.

Alongside this, the use of the power has become more transparent, with forces publishing more data and more detail, and there is greater community involvement and scrutiny of stop and search issues across the country.

This revision of the Best Use of Stop and Search Scheme, or "BUSSS 2.0", recognises the improvements made across England and Wales but also, importantly, it takes into account force experiences of implementing the Scheme and feedback from police officers, practitioners, campaign groups and the public, on how it can be improved.

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<sup>1</sup> The arrest rate alone does not, however, tell the full story. This is recognised by the Scheme's first component, which requires that all initial outcomes, where there is no arrest made, are also recorded e.g. PND, Khat and Cannabis Warning, items searched for etc.

# Summary

The principal aims of BUSSS 2.0 are broadly the same as when it was first launched: to achieve greater transparency, community involvement and better outcomes; for example, an increase in the stop and find ratio. This will help support the overarching strategic aim of making its use more fair, effective and legitimate. The components of the Scheme are designed to achieve this by enabling:

- **Front Line Officers** to develop a greater understanding of their powers and obligations concerning use and recording of stop and search. This includes understanding why transparency is necessary and the impact that unfair or unlawful use of the power can have on police-community relations. Officers will receive refresher training on the practical execution of searching persons safely and sensitively, which will be organised by their respective forces.
- **Police Supervisors** to understand their responsibilities in assessing how stop and search is being used by the officers they oversee, helping to improve standards where problems are identified.
- **Police Leaders** to develop a strategic understanding of stop and search and embed a culture within their force which emphasises an outcome focussed approach to tackling crime and the importance of police-community relations. They will also have a role to play to ensure that there are no targets in the use of stop and search, and that force training is robust and meets College of Policing standards.<sup>2</sup> Police leaders must also ensure that independent, public scrutiny of stop and search use and policies regularly take place, and that the public are given genuine opportunities to influence their use.
- **Independent Scrutiny Groups** to oversee the use of stop and search, communicating community experiences and feedback on the behaviour of individual officers, and incorporation of community advice into local policy and performance plans to improve the use of the powers.

Forces adopting the Scheme are required to observe each of the following components:

- **Data Recording** – recording a comprehensive range of outcomes following the use of stop and search powers e.g. arrests, cautions, penalty notices for disorder (PNDs) and other specified disposal types. Forces will also publish data which demonstrates, in a meaningful way, whether there is a direct link between the object of the search and its outcome.
- **Lay Observation** – pro-actively reaching out to communities, providing the opportunity for members of the public to learn about stop and search, understand how stop and search is conducted and the potential ways it is helpful in tackling crime and improving public safety. Where possible, individuals should be given the opportunity to accompany the police on patrol or on specific operations.
- **Community Feedback Agreement** – a published, and publicly consulted on, policy requiring the force to make clear to the public how they can provide feedback or complain, and setting out what will be done with the feedback. The policy will make clear how the feedback, particularly complaints, will be treated, what will happen next, and the possible outcomes they can expect, depending on the nature of the feedback.

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<sup>2</sup> See Approved Professional Practice: <https://www.app.college.police.uk/app-content/stop-and-search/>

- **Section 60 Criminal Justice and Public Order Act 1994** – a proportionate and considered approach to the use of section 60 ‘no-suspicion’ stop and searches by –
  - requiring authorisation to be given or confirmed by a chief officer (an officer above the rank of chief superintendent);
  - ensuring that section 60 stop and search is only used where it is necessary i.e. in anticipation of serious violence, where it is believed that people may be carrying dangerous or offensive weapons, or following a serious violent crime. The authorising officer must reasonably believe that an incident involving serious violence will take place rather than may;
  - halving the maximum duration of initial authorisations from 24 hours to no more than 12 hours;
- communicating to local communities when there is a section 60 authorisation in place (beforehand, where practicable) and afterwards, so that the public is informed of the purpose and impact of the operation; and
- publishing when, where and why any authorisation was made by an officer below the rank of chief officer, and notifying the Home Office of this.
- Race and Diversity Monitoring – enhancing forces’ ability to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities through adherence to BUSSS 2.0 components.

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# BUSSS 2 – in detail

## 1. Data recording and publishing

- 1.1 Understanding how the police use their powers is vitally important to the British model of policing by consent. Transparency, through the collection and regular publication of accurate data and information concerning the use of police powers, is a vital way of achieving this.
- 1.2 Data currently published in the annual Police Powers and Procedures Bulletin<sup>3</sup> provides information on the number of stop and searches and the proportion that result in an arrest. However, whilst indicative, the stop to arrest ratio does not give the whole picture concerning the effectiveness of stop and search. This is for two reasons: some arrests are not as a direct result of finding a stolen or prohibited item searched for e.g. no item is found but the person is nevertheless arrested for some other matter, or an item searched for has been found but another outcome has resulted e.g. the matter was resolved via on the street disposal, such as a Community resolution, Cannabis Warning or Penalty Notice for Disorder (PND).
- 1.3 BUSSS 2.0 remedies this by enabling forces to build a richer picture of how stop and search is being used, by recording the broad range of possible outcomes of stop and search where an item is found.

### **Forces participating in BUSSS 2.0 will publish information where stop and search activities have resulted in any of the following outcomes:**

- i. Arrest
- ii. Summons / charged by post
- iii. Caution (simple or conditional)
- iv. Khat or Cannabis Warning
- v. PND
- vi. Community resolution
- vii. A no further action disposal.

<sup>3</sup> <https://www.gov.uk/government/collections/police-powers-and-procedures-england-and-wales>

- 1.4 An important measure of success in stop and search for the purposes of BUSSS 2.0 is where the object searched for is found. This is likely to reflect good judgement on the part of the officer conducting the search, that is, the strength of their grounds for suspicion.<sup>4</sup>
- 1.5 To enable the public to form a judgement as to whether the police are using stop and search fairly and effectively, data which shows whether the outcome of a stop and search is directly connected to the object of the search i.e. the item searched for, must be recorded and published.

### **Along with data on wider stop and search outcomes, forces will:**

- Collect and publish data on whether there is a direct link between the item searched for and the outcome.

- 1.6 Forces will publish the information on their dedicated stop and search webpages, in easy read format, and submit data to the Home Office for publication on Police.UK on a monthly basis. Annual data must also be submitted for publication in the Powers and Procedures Bulletin (through the Home Office Annual Data Requirement).
- 1.7 Disproportionate use of stop and search on Black, Asian and Minority Ethnic (BAME) communities is a particular issue where stop and search is concerned. However, the way the stop and search is used on individuals with other protected characteristics must also be monitored and understood. In particular, the age and gender of individuals stopped and searched should be recorded and published.

### **Along with data on the race and ethnicity of individuals, forces will record and publish:**

- Age of person searched (self-defined or not given).
- Gender of person searched (male, female, transgender).

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<sup>4</sup> There may be occasions when a stop and search results in a prohibited item or stolen article unconnected to the grounds being found or, indeed, that nothing is found. This does not, in itself, mean that the stop and search was carried out unlawfully or was not a 'success' i.e. PACE makes clear that the purpose of stop and search is to allay an officer's suspicion. However, the particularly low find rate nationally, as well as HMIC findings concerning records of stop and search, indicate that the powers are not being used as they should.

## What are the benefits to the public and the police?

### **Force data recording will:**

- Enable the public to make a judgement for themselves as to the fairness and effectiveness of stop and search in their area through access to regularly published data, in easy read format, on the force website, Police.UK and annually through the Police Powers and Procedures Bulletin.
- Enable supervisors to scrutinise records of stop and search, identifying those in which the grounds recorded do not appear to be reasonable, and take appropriate action.
- Allow better scrutiny of stop and search powers by Independent Scrutiny Groups, enabling feedback to be provided to individual officers.
- Allow a more comprehensive monitoring of the effectiveness of the power across the force area.
- Allow forces and officers to demonstrate to the public a broader range of outcomes and success rate in using stop and search.

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## 2. Lay Observation

- 2.1 In order to improve public understanding of policing and encourage communities to contribute to developing best practice, forces must be open and accessible. It is important that the public, particularly young people and people from BAME communities, are able to see how the police typically conduct their work. Equally, it is also important for the police to understand how their style of policing affects the communities they serve.
- 2.2 Lay Observation is a way to achieve two-way learning, bringing the police closer to the public and the public closer to the police. It is an opportunity for the public to see everyday policing in action, including its various challenges, irrespective of whether a stop and search actually occurs.

### Forces participating in the Scheme will:<sup>5</sup>

- Explain stop and search powers to members of the public, including examples of what constitutes 'reasonable grounds for suspicion'.
- Explain the ways in which stop and search can contribute to tackling crime and improving public safety.
- Provide opportunities for the public to accompany the police on patrols or operations where there is a possibility that stop and search might take place.
- Enable the public to provide feedback to the police based on their observations, and for the police to collate and use the feedback provided by observers for organisational learning and to improve practice.
- Ensure that they pro-actively engage with diverse communities to promote observation opportunities.
- Ensure that lay observers selected reflect, as far as possible, the force area demographics.
- Ensure that the ability of the public to accompany the police through lay observation is not unduly restricted by vetting requirements. Eligibility should be judged on a case by case basis to encourage the widest engagement and, as a minimum, security checks should be conducted through the Police National Computer (PNC).<sup>6</sup>

5 Individual police forces will develop their own local policies to ensure that the use of lay observers is compatible with Article 8 of the ECHR (the right to respect for private life) and the Data Protection Act 1998.

6 Forces could check their own intelligence systems and if there are any concerns, checks can be run further through the Police National Database (PND). A person having received a conviction or an out of court disposal should not automatically bar them from lay observation. Consideration should be given to the seriousness of any offence, when it occurred and how it was disposed of in the Criminal Justice System (CJS). Assessors should also consider in practical terms what risk there is to members of the public, officers and staff of unauthorised disclosure of information by any person. If an individual is not cleared for lay observation then they must have the reasons for that decision explained to them.



2.3 The use of stop and search varies from force to force, and it is difficult to predict when use of stop and search powers might take place. Indeed, it should be explained to members of the public that they may not see stop and search in action as the police may not encounter a

situation where it is reasonable and lawful to search someone. It is for this reason that forces may wish to use alternative ways to demonstrate the use of the power, such as through Body Worn Video<sup>7</sup> footage or adapted training material, and so on.

## What are the benefits to the public and the police?

### Following Lay Observation:

- Participants will understand more about operational policing in the community, including when stop and search might be used and understand the ways it can be useful in tackling crime.
- The public will be able to see how officers develop 'reasonable grounds for suspicion', the complexities of stop and search, and when it might cause tension between the police and community.
- The public will be given the opportunity to give feedback on their experience which should be considered by force learning and development teams and contribute to individual and organisational learning.
- Where appropriate, the feedback, and any action taken, should also be made available to local scrutiny groups.

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<sup>7</sup> Forces showing footage obtained by Body Worn Video to the public should weigh up the privacy risks associated with disclosing personal data against the reason for doing so through a Privacy Impact Assessment (PIA). For a PIA template see: <https://www.btp.police.uk/docs/Privacy%20Impact%20Assessment%20Version%200%2015.1.doc>. The use of Body Worn Video will not be a substitute for lay observation, merely a form of observation.

### 3. Community Feedback Agreement

- 3.1 The Community Feedback Agreement is a key component of BUSSS 2.0, and one which can help enhance accountability, demonstrate transparency and responsiveness to public concerns, and encourage better performance. It is also an opportunity to involve the community in the investigation of complaints.
- 3.2 Across England and Wales the volume of complaints specifically relating to stop and search is small when considered against the total number of stop and searches carried out. This is not, however, an indication that there are no concerns about its use. Research<sup>8</sup> shows that people stopped and searched typically do not complain about the experience, even when they are unhappy or dissatisfied. There are number of reasons for this, including:
- they don't know how to make a complaint or it is too difficult;
  - they do not believe that anything will happen; or
  - they fear that they will be targeted by the police in future.
- 3.3 The Community Feedback Agreement aims to address these concerns. By adhering to the features of the Community Feedback Agreement, forces may improve public confidence through greater transparency and robust accountability arrangements.

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<sup>8</sup> HMIC 2013 'Stop and search powers: Are the police using them effectively and fairly'.

## Forces participating in BUSSS 2.0 will:

- Develop the Community Feedback Agreement in consultation with the Independent Scrutiny Group.
- Consider ways to increase Scrutiny Groups' knowledge of stop and search by delivering a slimmed down version of the stop and search training programme.
- Ensure Scrutiny Groups members selected reflect, as far as possible, force area demographics.<sup>9</sup>
- Ensure that officers pro-actively inform those who have been stopped and searched where and how to provide feedback or complain if they are not satisfied with the reason for the stop and search and/or the way it was conducted.
- Put in place a web based anonymous feedback facility.
- Ensure redacted complaints and feedback are monitored by Independent Scrutiny Groups on at least a quarterly basis.
- Publish the number of complaints on the force dedicated stop and search webpage on a monthly basis.
- Ensure the details of all complaints are reviewed by the force Professional Standards Department and appropriate action taken.
- Provide opportunity for the details of complaints (officer details redacted) to be examined by Independent Scrutiny Groups (this can be based on dip-sampling where the number of complaints is large), and that any concerns that the Independent Scrutiny Group has about individual cases are passed to the force's Professional Standards Department for consideration, appropriate action and wider organisational learning.
- Ensure, through regular monitoring, that all complaints involving stop and search are identified as such.
- Ensure that forces carefully respond to feedback from the public to facilitate greater community engagement.

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<sup>9</sup> We recognise that in some force areas, particularly in the case of the British Transport Police, that it may be difficult to generate interest from individuals to join scrutiny groups at a local level, making it harder to reflect local demographics. Geography can also make this task difficult. HMIC have confirmed that as long as there is some form of meaningful independent scrutiny, perhaps at a force level (rather than division), then this would represent compliance with this component. Forces will have to demonstrate such a difficulty, however.

## What are the benefits to the public and the police?

### **The Community Feedback Agreement will:**

- Create an agreement between the police and local communities on dealing with feedback and dissatisfaction with stop and search.
- Provide the public with an avenue to express their concerns or support with the way that a stop and search has been carried out.<sup>10</sup>
- Encourage people to provide feedback or express dissatisfaction anonymously.
- Ensure that all complaints are scrutinised by PSDs to examine whether any formal or management action is required.
- Create transparency in the complaints process with publication of the number of complaints and scrutiny by ISGs.
- Facilitate officer learning and greater appreciation of the impact of stop and search on the community.
- Demonstrate the responsiveness of forces to public concerns.<sup>11</sup>

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<sup>10</sup> Complaints will be specific and could cover the conduct of the search, the conduct of the officer and whether the person stopped thought there were sufficient grounds for them to be stopped i.e. was it conducted lawfully?

<sup>11</sup> Forces will ensure that they communicate with the public through the use of social media.

## 4. Section 60 Criminal Justice and Public Order Act 1994 stop and search

- 4.1 Section 60 stop and search powers<sup>12</sup> are controversial by virtue of the fact that individual police officers exercising the power are not required to have any grounds for suspicion. Once a Section 60 authorisation is in place, officers do not need to have suspicions about a particular individual prior to stopping and searching them, although it is a requirement of PACE Code A that an officer of inspector rank or above must give authorisation in writing, except in urgent circumstances where verbal authority can be given if an incident involving serious violence has happened. Police officers must explain that a Section 60 authority is in place if they search someone under this power.
- 4.2 Prior to the introduction of the Best Use of Stop and Search Scheme, this led to a large number of searches, a considerably low arrest rate, and sometimes resulted in heightened tension between the community and police. BUSSS 2.0 introduces a set of requirements that, when combined, ensure that participating forces improve their use of this power.

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<sup>12</sup> BUSSS 2.0 does not include the use of section 60AA of the Criminal Justice and Public Order Act 1994. This section is a standalone power for an officer of the rank of inspector (or above) to authorise the removal of disguises, limited to a particular geographical area and for a specified period of time.

## **Forces participating in BUSSS 2.0 will operate the use of section 60 stop and search powers so that all stops and searches conducted under this section will adhere to the following conditions:**

- The 1994 Act currently provides for an officer of at least the rank of inspector to give a section 60 authorisation in a particular area for a specified period time. Forces under BUSSS 2.0 will raise the level of authorisation to chief officer, unless there are exceptional circumstances which requires immediate authorisation from an inspector or above.<sup>13</sup>
- Although the word “necessary” does not appear in section 60(1), the intentions set out in Article 8 of the ECHR (right to respect for private and family life), implies that the test of ‘necessity’ is relevant in reaching a decision as to whether an authorisation is justified. Any authorisation made under Section 60 must therefore be made only when the officer believes it is necessary. In practice, in addition to expediency, which is explicit in the 1994 Act, the authorising officer must also have considered the authorisation necessary to prevent serious violence or to find dangerous instruments or weapons after an incident involving serious violence, or to detain persons carrying weapons. This applies to all forces using this power regardless of whether they are participating in the Scheme or not.
- Officers authorising a section 60 must have a high degree of certainty that incidents involving serious violence will take place rather than this being a possibility. Where the section 60 is not in response to an incident, judgements must be informed by credible intelligence and a genuine expectation that violence will take place.
- The law provides for initial authorisations to be made for up to 24 hours (extendable for a further 24 hours). BUSSS 2.0 forces will limit the maximum duration of the initial authorisation to 12 hours. For an extension up to 24 hours, an officer of senior rank will authorise any additional extensions.
- Participating forces must communicate with the public in the areas where a section 60 authorisation is to be put in place in advance (where practicable) and afterwards.<sup>14</sup> The public need to be informed of the purpose and outcomes of each section 60 operation.
- Forces must publish when there is a departure from BUSSS 2.0 In particular – where and why any authorisation was made by an officer under the rank of chief officer. This must be published on the dedicated force stop and search webpage.

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13 Those circumstances should include only where:

- there is an unforeseeable and urgent need for an authorisation to protect the public and/or officers; and
- an officer of above chief superintendent rank cannot be contacted at the time; and
- an officer of above chief superintendent rank must consider the authorisation as soon as practicable and endorse or rescind it; and
- any authorisation made under these circumstances, including the reason for it, must be made public.

14 Forces can communicate with the public through social media updates.

## What are the benefits to the public and the police?

### **Section 60 under BUSSS 2.0 will:**

- Discourage unwarranted section 60 authorisations resulting in fewer individuals being stop and searched under this power.
- Free-up police time by reducing the time spent on searches conducted under section 60.
- Provide greater chief officer oversight of the use of the power.
- Promote greater community engagement in the use of the power, potentially leading to better outcomes where section 60 is deployed.
- Help build public trust in the policing of communities.

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## 5. Race and Diversity Monitoring

5.1 The Equality Act 2010 requires forces to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. The components of BUSSS 2.0 enhance forces' ability to do this.

### **Forces will ensure that data and information collected under BUSSS 2.0 is monitored. In particular, forces must monitor:**

- Use of the powers on individuals from BAME communities (volume, outcomes, item found rate, connection between outcome and object, reason);
- Use of the powers on young people (volume, outcomes, item found rate, connection between outcome and object, reason);
- Use of the power by individual officers e.g. stop to find rates;
- Reasonableness of recorded grounds, and what action is taken where grounds are found not to be sufficient;
- Feedback, including complaints, and what has been done in response, and what the outcome was;
- Representativeness of ISGs, ensuring that these reflect the demographic of the local force area, including race, ethnicity, gender and age;
- Representativeness of those approached to be lay observers, and whether genuine efforts have been made to reach out to the community, particularly those affected most by stop and search activity.



## 6. Adherence to the Scheme

- 6.1 Chief Constables signed up to the Scheme are expected to adhere to all its components. However, nothing in the Scheme is binding in law; statute and case law on stop and search therefore remain unaffected.
- 6.2 Departing from BUSSS 2.0 is expected to be a rare occurrence. All such departures must be made public on the force dedicated stop and search webpages, together with the rationale, setting out why the departure occurred. The Home Office must also be notified where there is a departure.
- 6.3 The Home Secretary reserves the right to suspend or withdraw membership of the Scheme where there is evidence that a force is not in compliance with its terms. Where a force is suspended, the public must be informed of their suspension through the dedicated stop and search webpages. Suspension of membership will require the removal of all reference to membership of BUSSS 2.0 on force and PCC webpages.

- Forces participating in the Scheme will make public all instances where they have departed from the requirements of the Scheme and explain the reason for why this occurred.

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**(A) BEST USE OF STOP AND SEARCH  
– A GUIDE FOR THE FRONTLINE**

**(B) BEST USE OF STOP AND SEARCH  
– A GUIDE FOR SUPERVISORS**

**(C) BEST USE OF STOP AND SEARCH  
– A GUIDE FOR POLICE LEADERS**

**(D) BEST USE OF STOP AND SEARCH  
– A GUIDE FOR ISGs**

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