

# GWENT POLICE

## All Stops - Stop and Search Policy



### SUMMARY

**'STAFF ARE REMINDED THAT THIS SUMMARY IS STRICTLY AN OVERVIEW OF THE KEY ELEMENTS OF THE DOCUMENT AND FOR A MORE COMPREHENSIVE EXPLANATION THE WHOLE OF THE DOCUMENT SHOULD BE READ'**

Stop and Search is used by Gwent Police to detect crime and make our communities safer.

The aim of this policy is to ensure that the community has trust and confidence in Gwent Police to use Stop and Search fairly and with good reason and that it is used in a way that targets active offenders and minimises the impact on law-abiding members of the community.

It is important therefore that we make the best possible use of Stop and Search powers prior to arrest. Gwent Police will use these powers in a non-discriminatory way and in a way that has a positive impact on community confidence.

This policy is supported by both Operational and Administrative Procedures, which are further detailed in the Gwent Police All Stops-Stop and Search Procedure.

**PRINTED VERSIONS SHOULD NOT BE RELIED UPON. THE MOST UP TO DATE VERSION CAN BE FOUND ON THE INTRANET POLICIES SITE.**

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## 1.0 Policy Identification Page

This policy has been drafted in accordance with the principles of Human Rights Legislation. Public disclosure is approved unless otherwise indicated and justified (see section 5.3).

**Policy Title:** All Stops - Stop and Search Policy

**Reference:** 205/1a issue 2

**Underlying Document:**

- ACPO Guide to the use of Stop and Search ( 2005)
- Centrex Practice Advice on Stop and Search (2006)

**Policy Ownership:** Diversity Policy Team

**Portfolio/Business Area Owner:** Chief Officer Operational Policing

**Policy Written By:** Head of Diversity Policy Team

**Department Responsible:** Diversity Policy Team

**Policy Lead:** Head of Diversity Policy Team

**Links to other Policies/Procedures:** Data Protection, Information Security, Direction and Control Complaints, Firearms, Health and Safety, Hate Crime, Independent Advisory Group, Interpreters, Lay Observers, Licensing, Media, Missing Persons, National Intelligence Model, personal and Operational Safety Training, Pocket Books, Policing Public Sex Locations, Professional Standards Reporting, Race Equality Scheme,

**Policy Implementation Date:** 1<sup>st</sup> December 2008 (approved by OPG/ACC)

**Policy Review Date:** November 2010

## **2.0 Policy Statement & Intentions**

### **2.1 Principle & Scope of Policy:**

#### **2.1.1 Policy Statement**

Gwent Police is committed to gaining and maintaining the confidence of the public by demonstrating a fair and open use of the powers and requirements contained within the Police and Criminal Evidence Act 1984 (PACE) and the Codes of Practice. This can be achieved by officers providing members of the public with credible reasons when stopping and searching them and providing a written record at the time.

Gwent Police will use all the power fairly and without discrimination to reduce terrorism, criminal activity, violence and anti-social behaviour within Gwent.

#### **2.1.2 Scope**

This policy relates to Stop & Account and Search powers prior to arrest, carried out under the following legislation:

#### **2.1.3 Stop & Account – Recommendation 61 of the Steven Lawrence inquiry report**

Stop and Account is an obligation on the police to record all encounters with the public, which come within 4.11 – 4.20 of the Police and Criminal Evidence Codes of Practice. Stop and Account can be a valuable tool in the detection and prevention of crime.

#### **2.1.4 Search Powers prior to arrest under the Police and Criminal Evidence Act 1984 (PACE)**

The general power for police to stop people, vehicles and vessels, comes from the Police and Criminal Evidence Act 1984. Both the powers to Stop and Search under PACE and those authorised by most other statutes must be carried out in accordance with Code A of the Codes of Practice.

#### **2.1.5 Section 44 (1) & (2) Terrorism Act 2000**

This power gives a constable in uniform the right to stop and search any person or vehicles, if they have articles of a kind which could be used in connection with terrorism, authorised by a Chief Officer and applied within a particular area for a specific period of time.

#### **2.1.6 Section 60 Criminal Justice and Public Order Act 1994**

This power gives a constable in uniform the right to stop and search any person or vehicle, within a particular area, during a specified period of time, to prevent serious violence and the carrying of weapons and also provides the power to request removal of face coverings.

### **2.1.7 Application**

This policy applies with immediate effect. All Police Officers, including Police Community Support Officers and Special Constables.

The following have specific responsibilities under the policy:

- Chief Officers
- Divisional Senior Management Teams
- Operational Chief Inspector
- Section / Operational Inspectors
- First Line Supervisors
- Operational officers
- Data Entry Bureau
- Corporate Services

BCU/Divisional Commanders have a general responsibility for ensuring compliance to this policy.

### **2.2 Aims of Policy:**

The aim of this policy is to ensure that officers comply with the law, acting within their powers and that all Stop & Account and Search powers are used fairly, responsibly, without unlawful discrimination and with respect for people being searched. The encounters should be carried out as part of intelligence led policing and in a manner that is supported by the community.

#### **2.2.1 Aim:**

##### **Public Confidence**

By practising, examining and maintaining quality in these areas we will see improvements in ourselves and for our communities :

- To improve community confidence in the use of police powers;
- To improve the perceptions of fairness about the use of the powers;
- To improve accountability of police action to local communities.

##### **Ensuring Legality**

Through:-

- Effective monitoring of all stops and searches;

- Strong supervision in the use, recording, and evaluation of use;
- The Utilisation of powers to prevent and detect crime.

### **Maximising Effectiveness**

To :-

- Improve the quality of intelligence used as the basis for police use of these powers;
- Use up to date intelligence to inform and deal with problem areas;
- Emphasis on the outcomes from stop searches, quality arrests and intelligence gained;
- Improve service delivery.

### **2.2.2 Benefits :**

The intended benefits of this policy are:

- Increased public confidence in the police use of powers and recording of encounters to ensure transparency
- Stop & Account and Search activity will become more proportionate and reasonable.
- Greater detection and prevention thereby leading to reduction in criminal activity and safer communities.

## **3.0 Introduction**

### **3.1 Origins/Background Information**

This policy has its origins in:

- The Police and Criminal Evidence Act 1984 Revised Code A (as revised on 1<sup>st</sup> August 2004)
- The Stephen Lawrence Inquiry 1999, Recommendation 61.

### **3.2 Motivators/Driving Forces**

All of the Stop/Stop and Search powers available to the police are essential tools in the prevention and detection of crime and in reducing the fear of crime. It is important that they are used with the support and confidence of communities. Independent evaluation shows that the public supports the appropriate use of Stop /Stop and Search powers by the police. Gwent Police intends to embrace and build upon that support.

It is acknowledged that the exercise of these powers can be contentious and intrusive. The exercise of Stops/Stop and Search powers places heavy demands on the judgement, sensitivity and discretion of those who use them. It is imperative that they are used consistently, proportionately, and transparently.

As a result of the Home Secretary's acceptance of Recommendation 61 of the Stephen Lawrence Inquiry Report, and in order to enhance public trust and confidence in the police, officers must now record all 'Police Stops' (also known as Stop and Account). Code A of the Police and Criminal Evidence Act (PACE) 1984 has been revised to reflect this change as many of the requirements of the Code which govern Stop and Search encounters now apply to a Stop. All Stops / Stop Searches will be carried in line with the guidance provided by Code A.

### **3.3 The Legal Basis**

The policy will also take account of the provision of the :-

- Police and Criminal Evidence Act 1984
- Road Traffic Act 1993
- Misuse of Drugs Act 1971
- Firearms Act 1968
- Criminal Justice and Public Order Act 1998
- Terrorism Act 2000
- Anti Social Behaviour Act 2003
- Violent Crime Reduction Act 2006

## 4.0 Implications of the Policy

### 4.1 Financial Implications/Best Value

There will be an additional training and administration cost in support of this policy and its accompanying procedure.

### 4.2 Human Resources/Training

- All supervisors will be expected to cascade the details of this policy and its supporting procedure to all relevant staff.
- The Intranet and General Orders should be used to inform existing staff of the existence of this policy and its supporting procedure.
- Copies of the All Stops - Stop and Search Policy and Procedure will be circulated to **ALL** BCU Superintendents, Chief Inspectors and Sectional Inspectors.

### 4.3 Strategic Plan Links

This policy links to the aims of the force as set out in the Strategic Policing Plan in respect of reducing crime and the fear of crime.

In the use of this policy, the National Intelligence Model will be applied to all stages of the process.

This policy is linked to the General and Specific Duties of the Race Relations (Amendment) Act 2000 as laid out in the Gwent Police Race Equality Scheme.

### 4.4 Partnership Links

Organisations such as the Local Authority, Local Health Boards and Trusts, Education and Social Services are our statutory partners within the Crime and Disorder Act 1998 and are therefore governed by the provisions of Sec 17 of this Act which states the following :-

***‘ Without prejudice to any other obligation imposed upon it, it shall be the duty of each authority: to exercise its various functions with due regard to the likely effect of the exercise of those functions on and the need to do all that it reasonably can to prevent crime and disorder in its area’***

The Crime and Disorder Act also enables partner authorities and agencies to share information. **Further information and guidance can be found in the Gwent Police Information Sharing Agreement.**

## 4.5 Diversity

In the application of this policy, consideration must be given to the possible social impact of this policy on the community. A social impact assessment is a requirement to ensure all issues are considered. This is also a requirement of the Gwent Police Race Equality Scheme. Social impact assessments must be undertaken before and after the application of this policy.

Under the Race Relations (Amendment) Act 2000 Gwent Police is required to undertake proactive work to meet the General Duty of :

- Eliminating unlawful racial discrimination;
- Promoting equality of opportunity;
- Promoting good relations between people of different ethnic groups.

The General Duty is outlined in Section 71 (1) of the Act, and must be met **in its entirety**.

Monitoring must be undertaken to ensure that there is no adverse impact either positive or negative upon any one particular social group or individual. The results of monitoring must be analysed and be available for publication, and appropriate changes made.

All individuals using this policy must be aware of the potential impact that this policy has on the individuals to whom it is applied. The following strands of diversity and their corresponding pieces of legislation must be considered when answering these questions :-

- Welsh Language Act 1993
- Race – Race Relations Act 1976
- Race Relations Amendment Act 2000
- Disability - Disability Discrimination Act 1995
- Gender – Sexual Discrimination Act 1975
- Equal Pay Act 1971
- Age – Article 13 Treaty of Amsterdam (2006)
- Sexual Orientation – Article 13 Treaty of Amsterdam (2003)
- Religion – Article 13 Treaty of Amsterdam (2004)
- Employment Equality (Sexual Orientation) Regulations 2003
- Employment Equality (Religion or Belief) Regulations 2003
- Employment Equality (Age) Regulations 2006

## **4.6 Consultation**

The document for the purpose of consultation should be circulated to:

- Police Authority
- Chief Officers
- Divisional Departmental Heads
- Police Federation
- Police Superintendent's Association
- Gwent Police Women's Association
- Gwent Black Police Association
- Gwent Police Disability Support Network
- Gwent Police Gay Support Network
- Freedom of Information Officer
- Information Security Officer
- Data Protection Officer
- Gwent Police Independent Advisory Group

## **5.0 Human Rights Consideration Certification**

### **5.1 Auditing for potential interference and discrimination**

Q1. What articles of the Human Rights Act 1998 may be engaged?

- **Article 3 - Inhuman treatment**

No one shall be subjected to torture or to inhuman or degrading treatment or punishment.

- **Article 5- Right to Liberty**

1) Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:

(a) the lawful detention of a person after conviction by a competent court;

(b) the lawful arrest or detention of a person for non-compliance with the lawful

order of a court or in order to secure the fulfilment of any obligation prescribed by law;

- (c) the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so;
  - (d) the detention of a minor by lawful order for the purpose of educational supervision or his lawful detention for the purpose of bringing him before the competent legal authority;
  - (e) the lawful detention of persons for the prevention of the spreading of infectious diseases, of persons of unsound mind, alcoholics and drug addicts or vagrants;
  - (f) the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or of a person against whom action is being taken with a view to deportation or extradition.
- 2) Everyone who is arrested shall be informed promptly, in a language which he understands, of the reason for his arrest and of any charge against him.
  - (3) Everyone arrested or detained in accordance with the provisions of paragraph 1(c) of this Article shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial.
  - (4) Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful.
  - (5) Everyone who has been the victim of arrest or detention in contravention of the provisions of this Article shall have an enforceable right to compensation.

• **Article 8 - Right to privacy**

- (1) Everyone has the right for his private and family life, his home and his correspondence.
- (2) There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

- **Article 11 - Freedom of Assembly**

- 1) Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.
- 2) No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others.

This Article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the state.

- **Article 14 - Discrimination**

The enjoyment of the rights and freedoms set forth in this convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

Q2. Where individual rights are engaged what is the potential to discriminate against the parties involved?

**Where people are involved there is always the potential to discriminate but :-**

**" In the application of this procedure the Force will not discriminate against any persons regardless of sex, race, colour, language, religion, political or other opinion, national or social origin, association with national minority, property, birth or other status as defined under article 14 of the European Convention on Human Rights ".**

## **5.2 Key Human Rights Principles**

Q1. What is the legal basis for your policy?

- **Police and Criminal Evidence Act 1984**
- **Road Traffic Act 1993**
- **Misuse of Drugs Act 1971**
- **Firearms Act 1968**

- **Criminal Justice and Public Order Act 1998**

- **Terrorism Act 2000**

- **Anti Social Behaviour Act 2003**

Q2. Does the policy provide details of what could be considered as a legitimate aim for the potential interference with an individual's rights, through the exercising of this policy?

**Restrictions on the rights protected in articles 8 - 11 in the Human Rights Act will be compatible with the convention only if they are aimed at protecting one of the interests listed in articles 8(2), 9(2), 10(2) and 11(2) respectively. The interest protected are broadly the same and generally include:**

- 1. National Security**
- 2. Public Safety**
- 3. The protection of health or morals**
- 4. The prevention of disorder or crime and the protection of the rights of others.**

**This procedure aims to provide clear aims and to prevent undue interference to individual rights.**

Q3. How are staff made aware of the clearly defined decision making processes?

**Staff will be made aware of the clearly defined decision making processes through this policy document and the procedure linked to this policy.**

Q4. What are the minimum standards of documentation in relation to decision making?

**Standardised Documents and Reports have been included as appendices to this policy document.**

### **5.3 Rights, Publication, Audit and Inspection**

Q1. Are there any sections of the document which should not be disclosed to the public on the Force Publication Scheme; because they consist of tactical or operational policies, that would inhibit the apprehension or prosecution of offenders if publicly known, or would compromise the ability of the force to carry out its duties?

- **This policy can be published and disclosed to the public.**

Q2. What rights to make representation and appeal process are available?

- **Persons who wish to make representations regarding the operation of this policy will have recourse to both civil and criminal law. There is also the right to use both formal, informal and organisational complaints procedures in respect of the operation of this policy.**

Q3. What internal review and audit process is in place or is proposed?

- **This policy has been drafted in accordance with the principles and rights contained within the Human Rights Act 1998 and the Race Relations (Amendment) Act 2000. It will be reviewed and continuously assessed in the light of any relevant changes and developments within the relevant Act's.**

Q4. What external independent scrutiny is recommended?

- **The areas covered by this policy are open to scrutiny by H.M Inspector of Constabulary and Police Authority.**

#### **5.4 Certification of Compliance**

Consideration has been given to the compatibility of this policy and related policies and procedures with the Human Rights Act; with particular reference to the legal basis of its precepts: the legitimacy of its aims; the justification and proportionality of the actions intended by it; that it is the least intrusive and damaging option necessary to achieve the aims; and that it defines the need to document the relevant decision making process's and outcomes of actions.

#### **5.5 Legal Vetting**

This policy has been vetted for ECHR compliance.

#### **6.0 Promotion and Distribution**

The paragraph under this section identifies. The most favourable and appropriate style and manner for promoting the policy to achieve understanding, awareness, involvement, support and commitment :-

- General Orders
- Force Intranet site
- Force Internet Publication Scheme

- Newsletters
- Management Meetings
- Inspection Audit
- Dip Sampling
- Engaging with representative groups
- Aide Memoire for Officers/PCSOs

## 7.0 Monitoring – Audit and Scrutiny

This policy is subject to the following rigorous monitoring as per legal requirements.

The monitoring of data will be conducted at section and divisional management level, and scrutinised by the Force through the appropriate strategic groups.

This policy is monitored in the following ways;

1. **Check on Submission** of the “All Stops Form/Record” are conducted as part of the sectional supervisory and management functions to ensure that unsatisfactory forms/records are returned to the recording officer for accurate completion or explanation.
2. **Weekly Dip-Sampling Checks** are carried out by the Sectional Inspector to ensure compliance/satisfactory submission.
3. **Monthly Dip-Sampling Checks** are carried out by the Chief Inspector (Operations) to ensure compliance/submission of unsatisfactory forms/records.
4. **Monthly Performance Figures** are reviewed centrally and locally to highlight emerging issues.
5. **Quarterly Dip-Sampling** of the “All Stops Form/Record” by the Force Diversity Policy Team for compliance.
6. **Performance Reviews** are conducted by the ACPO Command Team via:
  - Basic Command Unit Monthly Performance Review
  - Confidence and Equality Board “ Performance and Disproportionality”
7. **Performance Scrutiny** oversight is provided by the Gwent Police Authority – Equality and Human Resources.

8. **Performance Reports** will be discussed on a by-monthly basis with the, Independent Advisory Group, Multi-Agency Forums and published every six months.

The results of monitoring will be used to publish and inform any subsequent impact assessment and consultation process, and changes made where appropriate.

The principles of the Race Relations (Amendment) Act 2000 will be adhered to in that any recognisable adverse social impact should be identified and appropriate action taken.

**Performance Indicators:**

- Compliance
- Stops by self-defined ethnicity, gender and age
- Arrest rates
- Disparity in arrest rates
- Timeliness
- Disproportionality