



BRIEFING PAPER

FOR NOTING			
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Attachments: APPENDIX A - LETTER			

BRIEFING PAPER FOR THE CONVENOR OF THE JUSTICE SUB-COMMITTEE ON POLICING

1. Purpose

- 1.1 The purpose of this paper is to provide the additional information requested by the Convenor of the Justice Sub-Committee on Policing.

2. Background

- 2.1 At the Justice Sub Committee on Policing on the 19 June 2014 Police Scotland made the commitment that the practice of consensual search for children under 12 years of age would cease.

As a result of this commitment, a number of measures were put in place, not only to ensure compliance, but also to ensure that keeping children safe was at the heart of any engagement activity with young people in the public domain.

- The force policy in relation to stop and search of children under twelve was changed (FM 122/14) to reflect the commitment and guidance was issued to all officers, which was aligned to the force values of *Integrity, Fairness and Respect*, the Code of Ethics and the principles of ECHR.
- Monitoring processes, co-ordinated by the National Stop and Search Unit (NSSU), were put in place for all searches of young people under twelve.
- Training for Probationary Constables on stop and search has been revisited and now incorporates a total of eight hours of theory and practical exercises to enhance learning and understanding.
- Police Scotland has designed and delivered bespoke power point presentations, contained within daily briefings for officers and members of police staff which can also be readily accessed through the Force intranet system.

- 2.2 At the Justice Sub-committee on 19 June 2014, Assistant Chief Constable Wayne Mawson announced the policy that was to be adopted by Police Scotland and was made after consultation with The Chief Constable Sir Stephen House and Deputy Chief Constable Rose Fitzpatrick, whereby he stated:-

'I simply believe that this is the right thing to do. It is not practical to expect a child to understand what providing his/her 'consent for a search' really means. We already have safeguards in place around our dealings with young children, such as the use of appropriate adults during interview; therefore we must take cognisance of this in relation to stop and search. The age of 11 ties in with the COPFS position where children aged 11 and under will not ordinarily be prosecuted for criminal offences.'

This also correlates with the Children (S) Act 1995 regarding under 12s ability to the provision of consent.

- 2.3 With effect from Monday 23 June 2014 the policy was implemented and communicated across Police Scotland. The compliance process involved initiating weekly audits, undertaken by the National Stop Search Unit (NSSU) and who reviewed any age irregularities including those relating to under-12 years of age. When any anomalies were identified a memorandum was sent to every officer who had carried out a consensual search on child aged 11 years of age and under and this was copied to their respective Area and Divisional Commanders to allow a review the circumstances and ensure understanding of actions taken were in line with force policy.

3. Clarification of the correct figures on stop and search and reasons for the provision of inaccurate statistics.

At the Public meeting of the Scottish Police Authority on Friday 13 February 2015, Assistant Chief Constable Nelson Telfer provided a breakdown of the 100% review that was carried out on the 356 records identified. After taking into consideration those records that were identified as having errors and legislative amendments 130 consensual records remained. They were further assessed to fall into one or more of the following categories:

- Searches carried out with either a parent or guardian present
- Searches were for officer safety reasons only, where under 12's were arrested or detained – this would normally be what is referred to as a "pat down" before being placed in a cell van or patrol car and should not have been recorded as a stop search.
- Records were raised as a consensual search where from the officers response it was clear that a legislative power was available but not used – this was a training issue and has, in the first instance, been addressed with the officer.
- Searches involving an intervention for alcohol or tobacco where there is no power of search – they should not have been recorded as a stop search and should have been recorded as an intervention on our command and control system.

In taking these categories into consideration a total of 18 records remained as consensual searches carried out contrary to Force memorandum 122/14. In order to address this Police Scotland reinforced available information on the

Force intranet system, designed and delivered bespoke power point presentations as part of daily briefings advising officers and members of police staff of the policy change.

Why were the figures released when the Information Commissioner states she did not compel Police Scotland to do so?

Please see the letter at Appendix A from The Chief Constable Sir Stephen House.

4. Alcohol Stop Searches of Young People (less than 18yrs)

- 4.1 There is a widely acknowledged relationship between the misuse of alcohol and incidents of violence, disorder and antisocial behaviour involving children and young people less than 18 years of age. Many alcohol related incidents, such as street fighting and disorder, drunkenness and urination etc occur within public areas (local parks etc) and contribute to an increase in the fear of crime amongst young people and the risk of harm to young people. Community Consultation responses also indicate that alcohol related youth crime and offences are of significant concern and is often highlighted as being a local priority that requires immediate action.

Police Scotland currently uses the full range of powers at its disposal in the prevention and detection of crime and the pursuit of keeping people safe. It is important that we continue to make the best possible use of stop and search as an operational tactic to combat alcohol fuelled violence and disorder.

In year 2 of Police Scotland there have been 43,923 alcohol stop searches involving children and young people less than 18 years of age of which 16,910 were positive giving an overall rate of 38.5% positive. This means that in nearly 17,000 incidents in 10 months children and young people were found in possession of alcohol in public places.

Stop & Searches - 2014-15 Year to date (1st Apr 2014 to 5th February 2015) Police Scotland Management Information and not official statistics.

All Search Types (Legislative & Consensual Combined)

Division	Total Stop & Searches	Total Alcohol Stop & Searches	Alcohol Searches as a proportion of Total searches	Total Alcohol Searches U18 (Age 1-17)	Alcohol U18 (Age 1-17) searches as a proportion of all Alcohol searches
Force	385,770	114,103	29.6%	43,923	38.5%

5. Conclusion

This paper is submitted to the Scottish Parliament's Justice Sub-Committee, for information, ahead of its Stop & Search evidence session on 19th February 2015.