

Please ask for: Arron Cullen
Telephone Number: 0121 626 6060
wmpcc@west-midlands.pnn.police.uk



Report on the Criminal Justice Alliance’s super-complaint: Section 60 of the Criminal Justice and Public Order Act 1994 and independent community scrutiny of stop and search. Response from Simon Foster, West Midlands Police and Crime Commissioner.

Published on 15th December 2023, this super complaint focused on section 60 powers and independent scrutiny of stop and search across police forces in England and Wales. The concerns raised by Criminal Justice Alliance’s super-complaint regarding the effectiveness of section 60 powers in dealing with violent crime, the potential discriminatory and impact on specific groups, low arrest rates and seizures of weapons following section 60 stop and searches emphasised the need for a review of current practices. The resulting report commences by acknowledging the responsible use of section 60 authorisations to address serious violence. It highlights the general understanding among senior leaders regarding the legitimate, proportionate, and necessary use of these powers. Additionally, the report commends the commitment to independent scrutiny of stop and search through community scrutiny panels.

The findings of the report have resulted in ten key recommendations for Chief Constables, Police and Crime Commissioners, the Home Office, and the National Police Chiefs' Council (NPCC). Furthermore, the College of Policing's intended action on recording and assessing authorisations is identified. One critical aspect addressed in the report is the experience of individuals subjected to searches under section 60 powers, particularly concerning the potential impact on children and young people. Stakeholder perspectives, gathered through interviews, an online conference, and reviews of complaints and body-worn video footage, reveal diverse opinions on the justifiability of section 60 usage. Concerns about negative effects, disproportionate application, and impacts on trust and confidence in the police emerge as recurring themes.

The report delves into the training provided to officers regarding section 60 powers. While recognising the need for adaptability in training requirements, the report expresses concerns about variations in content and quality across different forces. The national policing curriculum, last updated in 2016, is highlighted as requiring maintenance to reflect current information, guidance, and evidence related to stop and search powers. Evaluation of section 60 authorisations forms a significant part of the report, highlighting the need for clarity, justification, and effectiveness in their use. The report underscores differences across forces in recording, format, and evaluation criteria, calling for standardised frameworks to assess legitimacy and effectiveness objectively.

The report further examines forces' compliance with legal obligations, underlining the importance of briefings and effective communication of information and intelligence to officers. Inconsistencies in briefing quality and recording methods for section 60 encounters are identified, leading to a recommendation for conducting and recording briefings using audio-visual devices. Lastly, the report addresses issues related to the use of handcuffs during stop and search encounters, accentuating the importance of lawful application and the need for consistent supervisory oversight and independent review. Inconsistencies in safeguarding approaches for children subjected to searches are also highlighted, urging a service-wide prioritisation of this critical matter. The following recommendations are especially relevant to respond to and relate to Police and Crime Commissioners and Chief Constables:

By 14 June 2024, chief constables should make sure their forces review the content of training on section 60 of the Criminal Justice and Public Order Act 1994 and how they provide it.

Recognising the dynamic nature of employing section 60 powers operationally is crucial, but it must be counterbalanced by considering the impact these powers have on the communities they serve. Ensuring that all WMP officers are well-trained and confident in exercising these powers is paramount. My focus is on ensuring that training for the fair and effective use of police powers is not only adequate but also regularly updated. Stop and Search training primarily occurs during initial student training and is subsequently refreshed during periodic safety training. Initial student training also encompasses lessons from WMP black history sessions and community engagement sessions, emphasising legitimacy, fairness in policing, and respecting equality and diversity. I will collaborate with WMP to thoroughly review all existing training provisions, specifically examining the training offered to officers regarding section 60 powers. Additionally, I aim to understand and evaluate the support and advice provided to officers deployed within section 60, with the goal of enhancing overall training effectiveness.

By 14 June 2024, chief constables should make sure briefing and debriefing arrangements for their force's activities under section 60 of the Criminal Justice and Public Order Act 1994 are thorough and in line with Police and Criminal Evidence Act 1984 Code A and authorised professional practice content and guidance. Chief constables must make sure section 60 authorisation briefings are recorded.

Approval from an Assistant Chief Constable (ACC) is mandatory for all section 60 authorisations within WMP, in accordance with established policy. The use of pre-planned section 60 must undergo ACC approval before deployment in operational settings. While dynamic section 60 authorisation within 24-hours can be granted by Inspectors, it must promptly seek ACC sign-off. WMP has a comprehensive policy governing section 60 usage, requiring a complete intelligence package submission to the ACC for initial briefing and

approval in pre-planned scenarios. This information is then integrated into the officer briefings. Officers involved in section 60 activities must receive a pre-operation briefing, and post-operation briefings necessitate the production of a report sent for publication on the West Midlands Police and Crime Commissioner website.

Consistent with WMP policy, all stop-and-search activities, including section 60 searches, are recorded on Body Worn Video (BWV) and retained for 12 weeks unless evidential. Oversight of compliance across all Local Policing Areas is maintained, with monthly briefings and an expectation of 100% BWV compliance in section 60 searches. I will collaborate with WMP to align policies and procedures with recommendations, ensuring a comprehensive and compliant evidence repository is maintained centrally. This will guarantee that section 60 powers adhere to the principles of legitimacy and procedural fairness.

By 14 June 2024, chief constables should make sure all officers who may exercise stop and search powers understand, and comply with, their responsibility to safeguard children who are stopped and searched.

Comprehending the ramifications of section 60 authorisations on the community is vital, particularly concerning searches involving children and young individuals, as data indicates a significant impact on them when such powers are used. It is imperative to ensure that police officers grasp the legal framework pertaining to the safeguarding of children, enabling them to conduct searches that prioritise the safety and well-being of young people. This not only fosters the development of trust and confidence but also aligns with the principles of child-centred searches.

In collaboration with WMP, my office will undertake a thorough review of the existing training provisions, as outlined in recommendation 1, to ensure that training aligns with the APP guidance on searching children. Additionally, we will ensure that safeguarding practices and policies are consistently considered and substantiated. This proactive approach aims to enhance the overall effectiveness and appropriateness of the training provided to police officers in handling situations involving children and young people.

By 14 June 2024, chief constables should make sure forces effectively communicate with communities and interested parties on the police use of section 60 stop and search powers.

Ensuring that our communities remain central to the considerations of section 60 is of utmost importance. It is crucial for our communities to comprehend the how and why behind police operations on their streets. In 2019, amendments to the Best Use of Stop and Search Scheme (BUSSS) were tested, allowing section 60s to be implemented without prior public communication. However, in the West Midlands, we have retained the practice of informing the public about section 60, and this policy remains in effect as a permanent

amendment. Communicating information about section 60s, especially in advance, enhances legitimacy and public transparency.

WMP currently employs various channels to disseminate information about section 60 authorisations, including social media, Key Individual Networks (KINs), and local stakeholders' groups, such as youth centres. In collaboration with WMP, we are actively engaged in fortifying the process of communicating and consulting on section 60 with chairs of our community scrutiny panels during the application processing stage. It has been mutually agreed that all section 60 authorisations will be promptly communicated to my office, and I will continue to publish such authorisations on the website as soon as practicable.

By 14 June 2024, chief constables should satisfy themselves that their force gives community scrutiny panels (or their equivalents) all relevant information to help them scrutinise police stop and searches and other police actions arising from section 60 authorisations.

Community scrutiny panels are crucial in fostering trust and confidence by facilitating genuine public scrutiny. In the West Midlands, we currently manage 10 panels dedicated to scrutinising Stop and Search and Use of Force data. Comprising members of the public, these panels are tasked with analysing anonymised stop and search records and reviewing body-worn videos to verify the adherence to correct procedures and the proportionality of the use of force. The goal is to enhance transparency, bolster confidence in policing, and promote better practices. For example, these panels meticulously examine instances of force, including actions like handcuffing and the exercise of stop and search powers under section 60. The community scrutiny panels have undertaken comprehensive examinations of section 60, delving into the reasons for its usage, levels of authorisation, and, most significantly, the outcomes that may indicate an unfair exercise of this power. Ongoing efforts are in place to ensure that all panels are equally well-informed about the power and its impact on diverse communities. I am satisfied that the Chief Constable provides scrutiny panels with all the necessary information to conduct independent scrutiny.

By 14 June 2024, chief constables and where applicable police and crime commissioners (or equivalents) should make sure their forces work in partnership with community scrutiny panels.

As previously mentioned, the force area has ten scrutiny panels, each tasked with meticulously examining randomly selected samples of stop and search records. These panels operate in close collaboration with both the Office of the Police and Crime Commissioner and West Midlands Police. Their collective aim is to provide comprehensive conclusions and constructive feedback, which are subsequently utilised, where relevant, to enhance and elevate the standards of stop and search procedures. This collaborative effort reflects a commitment to continuous improvement in the application and execution of stop and search

activities within the West Midlands. I will ensure the sustained collaboration of this partnership, ensuring that scrutiny panels maintain their efficacy in thoroughly examining stop and search records.

In summary, I appreciate the thorough examination conducted in this report, providing crucial insights into the application of section 60 stop and search powers and their impact. The findings serve as valuable guidance in ongoing efforts to refine and enhance the approach to the use of section 60 authorisations and routine scrutiny. Thus, this examination prompts a commitment to ensuring that utilisation of section 60 powers aligns with the principles of legitimacy, proportionality, and procedural fairness, contributing to a more transparent and community-responsive policing system.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Simon Foster', with a stylized, cursive script.

Simon Foster

West Midlands Police and Crime Commissioner