**OFFICE OF POLICE AND CRIME COMMISSIONER**

**TITLE:** Legitimacy Scrutiny Panel Stop and Search Exercise – April 2023

**DATE:** April 2023

**TIMING:** Routine

**PURPOSE:**For Scrutiny

|  |  |
| --- | --- |
| **1.** | **RECOMMENDATION**   1. For the Commissioner and Gwent Police’s Head of Operational Support to consider the outcomes of, and recommendations from the Legitimacy Scrutiny Panel exercise undertaken in April 2023. 2. For Gwent Police to provide feedback to the OPCC in response to the recommendations to demonstrate how the recommendations will be addressed. |
| **1.** | **INTRODUCTION**  A Legitimacy Scrutiny Panel (LSP) session took place in April 2023 covering stop and searches conducted during the quarter 4 period 1st January to 31st March 2023. A selection of Body Worn Video (BWV), randomly chosen by a Panel member for dip sampling, was reviewed along with the relevant stop and forms. A range of data, including race disproportionality and item found rates was also considered.  This report highlights the outcomes of the Scrutiny Panel’s activity for this session. |
| **2.** | **ISSUES FOR CONSIDERATION**  **Feedback on Previous Actions**  During the November 2022 session, the following actions were agreed during the dip sample of records:  **Action 1:** Gwent Police to discuss community engagement approaches and how to improve messaging around stop and search and use of police powers using Comms and develop the narrative to support positive public engagement.  **Update:** Plans are in place for Community Webinar on stop and search to inform and reassure our communities of our commitment to improving the use of this power. This proposal has been a recent agenda item on the force’s Independent Advisory Group (IAG) meeting with agreement to deliver this in the Newport area with our most diverse communities and where stop and search is used most frequently.  **Action 2:** Gwent Police to create an easy-to-read data summary for police powers that can be regularly published and used to support public engagement and messaging.  **Update:** Consideration is being given to using the current victim framework to support the narrative with community groups.  **Action 3**: Gwent Police to review URN \*9\*\*0 in respect of members’ comments regarding the apparent inconsistencies between recorded information sources and provide feedback on the outcome. **Update:** See Action 5 below  **Action 4:** Gwent Police to review URNs \*3\*\*9 and \*1\*\*7 where grounds were copied and pasted, no BWV was used and no supervisory checks recorded, and provide feedback on why this occurred and any resulting opportunities for learning.  **Update:** This remains under review by the Head of Operational Support and the Inspector leading on coercive powers continuous improvement. Further progress or outcome updates will be provided to the Panel as appropriate  **Action 5: (**Linked to Action 3) TheOPCC to recommend that Gwent Police considers and reflects more widely the discussion over the duplication of entry and disparity of information in police records for stop and search incidents, exploring opportunities to streamline information capture and sharing across police systems.  **Update:** This was raised and discussed at the Coercive Powers Scrutiny Board meeting. Observations were made regarding the accepted differences between public information as part of the stop and search record and the detail required for police logs which may contain restricted operational information. However, this should not undermine the quality of the grounds provided in the stop and search record.  **Summary:** A vehicle was stopped due to the manner of driving and a smell of cannabis when it pulled out at a junction in front of the officer’s car. The driver admitted having smoked prior to starting his journey and the officer stated that a drugs wipe would be taken. When questioned, the individual also admitted to having drug paraphernalia in the vehicle.  **Action 6:** Gwent Police to provide positive feedback from the LSP to the officer to recognise the quality of encounter and standard of engagement observed.  **Update:** Panel feedback was provided to the officer.  **Recommendation 1:** Gwent Police should consider the impact and effectiveness of current stop and search training methods, particularly for newly deployed officers undertaking supported searches on members of the public.  **Update:** Under consideration by the Head of Operational Support and the continuous improvement lead. Further updates will be provided to the Panel as appropriate.  **Inspection Update**  The Head of Operational Support provided an overview of feedback from the recent Police Effectiveness, Efficiency and Legitimacy (PEEL) inspection undertaken by His Majesty’s Inspectorate of Constabularies, Fire & Rescue Services (HMICFRS), which included stop and search. The Panel was informed that:   * Gwent Police should improve its recording of reasonable grounds for stop and search. * Little improvement was seen in the recording of reasonable grounds since the previous review of records during 2019. * Of the records reviewed, almost a quarter did not provide recorded reasonable grounds. Only 23% were considered to have ‘strong’ grounds, with 33.1% considered ‘reasonable’ and 23.4% considered to be ‘weak’ (i.e., the officer not clearly stating the grounds relied on when making their decision and therefore clarifying the justification for the search). * The practice of external scrutiny for stop and search and use of force was recognised, as was the creation of a youth scrutiny group. However, it was suggested that this scrutiny activity should take place more frequently to increase public confidence in the scrutiny of police powers. * In addition, it was suggested that the LSP would benefit from the inclusion of people with some lived experience of being searched or subjected to use of force.   We were assured by the Head of Operational Support that the issue of grounds continued to provide a focus for officer training and internal scrutiny processes. Effective supervisor checks would also support improvements in the quality of the grounds being recorded.  As part of Gwent Police’s internal scrutiny processes, all grounds relating to stop searches of Black, Asian and minority ethnic individuals are reviewed and assessed for ‘strength’ using the same approach as the LSP with the outcomes fed into the Coercive Powers Scrutiny Board. The outcomes from the LSP dip sample are also fed into Board meetings to support internal scrutiny and continuous improvement processes.  The OPCC Policy Officer suggested that due of the format change to the stop and search review process, the next LSP session could look at both use of force (as scheduled) and stop searches. If successful, the frequency of review would move from 6-monthly to quarterly, thus improving the timescale as suggested by HMICFRS.  **Action 1:** OPCC to consolidate both scrutiny themes for the July LSP session with a view to quarterly combined sessions.  The force’s Strategic Diversity and Inclusion Manager reminded members that work was underway to increase the representation of people with lived experiences within local scrutiny processes, including the LSP. It was acknowledged that there have previously been challenges in doing this; however, the force and the OPCC were working together to engage willing individuals and gain expressions of interest.  Members reiterated the need for meaningful and sustainable engagement activity by the force, including by leadership and for scrutiny and decision-making processes, to help renew community support for this activity. It was suggested that scrutiny should also be applied to engagement processes and approaches to ensure that they are not merely tokenistic and provide real outcomes for both the organisation and the communities involved.  Members were also provided with an overview of the key findings from the Children’s Commissioner’s report regarding the strip searching of children in England and Wales, which identified that:   * More than half (52%) of strip searches were conducted without an Appropriate Adult confirmed to be present. * 14 strip searches were conducted in police vehicles or schools. While the location of strip searches was not recorded in 45% of cases, additional potentially inappropriate locations for searches included private businesses, takeaway outlets, and amusement parks. * 1% of strip searches were conducted within public view. * 6% of strip searches were conducted with at least one officer of a different gender to the child being searched present.   The Head of Operation Support provided assurance that strip searches were being incorporated into internal governance processes and that the force had implemented an action plan to address any identified issues.  **Data**  The Head of Operational support provided an overview of stop and search data for Quarter 3. We were informed that:   * The total number of stops continued to rise during Quarter 3 by 43.3% when compared to Quarter 2 (from 431 to 618). * Stops conducted within the Newport areas accounted for 38.3% of the force total, a decrease of 3.5% on the previous quarter. * A similar proportion of individuals from ethnic minority backgrounds was stopped during Quarter 3 (10.5%) as in Quarter 2 (11%). * The overall Race Disproportionality Ratio (RDR) decreased from 3.7 in Quarter 2 to 3.0 in Quarter 3 (i.e., individuals from ethnic minority backgrounds were 3 times as likely to be stopped and searches as those from White backgrounds). * Asian and Black communities remain the most likely to be stopped. The percentage for the Asian community increased by 0.5% to 5.1% from Quarter 2, while percentages for the Black community have reduced by 2.9% to 2.4% since the last quarter. * The force-wide find rate was 30.4%, an increase from the 23.9% achieved in Quarter 2. Caerphilly Central saw the highest section find rate of 43.5%. * The use of BWV remained the same across the force for Quarter 3 as for the previous with a compliance rate of 96.3%. * During Quarter 3, a total for 507 strip searches were carried out by Gwent Police. Of these:   + 86 were recorded for children aged between 10 and 17 years;   + There were no incidents recorded involving full strip searches of children;   + Only 1 incident involved a partial strip search of a child;   + 16 strip searches involving 10–17-year-olds were carried out within the custody environment.   Members were informed that the force is taking an active approach to understanding and explaining where disproportionality in stop and search is noted. For example, during Quarter 3, an RDR of 6.4 was seen for Monmouthshire; however, the data showed that of the 40 person stop searches conducted in the area, only four related to individuals from ethnic minority backgrounds. In reviewing each record, the grounds and justification for the stops were found to be reasonable. Scrutiny is also applied to repeat stops on individuals or high stop search numbers for individual officers. This helps to identify any disproportionate impacts and activity enabling appropriate action to be taken by the force.  With regards to strip searches, the accuracy of data recording has been noted and Gwent Police is currently reviewing practice to make improvements where possible. The OPCC has also highlighted the lack of ethnicity data for strip searches, and this is being looked at for future reports.  Members acknowledged and thanked the Head of Operational Support for his commitment and contributions to the LSP over the past few years, and recognised that, while there is still work to do, Gwent Police has seen improvements in the use of police powers under his leadership and is in a good position to continue this into the future.  **Dip Sample**  At the last LSP session, members agreed to adapt the scrutiny process for stop and search to enable a greater focus on the quality of encounter. The grounds provided for each encounter observed would continue to be considered for their reasonableness, using the existing assessment criteria.  10 BWV recordings had been randomly selected for the session, with relevant contextual and supporting information from Gwent Police ‘Niche’ logs shared when appropriate. 6 of the 10 incidents were reviewed with comments and feedback summarised below:  **Video 1:** Officers responded to a call from a member of the public stating that her partner had verbally abused her and would not leave the property. She had also stated that he had ‘gone through’ her bags.  Additional contextual information was provided to members including historical problems in the relationship and admission by the individual relating to recent knife possession and intent to self-harm.  Members were largely satisfied with the way the officer dealt with the individual. It was noted that the individual was known to the officer, and members discussed the use of over-familiar language by the officer which could be perceived as unprofessional. The appropriateness of location of the search was also discussed; however, it was acknowledged that this had initially been in response to a request by the individual to move outside the property. There was also a perceived risk to conducting the search within the small entrance hallway had the encounter escalated.  The recorded grounds were assessed as ‘moderate’ with more detail required regarding the suspicion of stolen property, as claimed by the caller, as well as any additional safeguarding put in place following the incident.  **Video 2:** On speaking to the occupants of a parked vehicle, officers detected a smell of cannabis. The passenger admitted that they were in possession and gave the officer a quantity of drugs from their person. A further quantity of cannabis was found by the officer during the vehicle search. During this encounter, the driver could be heard raising their voice to the other officer present. Due to this, BWV from officer 2 (driver search) was also reviewed for additional context.  It was noted that the BWV was only switched on after the engagement had started, missing the initial interaction with the subjects. Members highlighted a perceived risk in the officers allowing the second individual access to the interior of vehicle before to the search, despite intelligence relating to prior possession of weapons. However, it was acknowledged that this may have been based on the officer’s relationship with the individual and the avoidance of escalation. Members queried the safety of the location of the search as taking place ‘in the middle of the road’ with several other vehicles seen driving past during the encounter.  Comments were also made regarding the casual way the officer addressed the driver but it was noted that the officer did build a positive rapport which helped to deescalate the situation.  The recorded grounds were assessed as ‘weak’ due to:   * Lack of any reference to intelligence on the vehicle; * Lack of any rationale for initially engaging with the occupants of a parked car; * ‘Smell of cannabis’ stated without supporting detail; * Clearer explanation needed as to whether the car was parked or driving   The importance of supervisor review was emphasised to enable quicker feedback to officers on the quality of grounds if required. This would also help to identify any individual training or wider messaging needs across the force.  **Action 2:** Gwent Police to feed back to the officer on the quality of grounds provided.  **Video 3:** Officers spoke to an individual sitting in a parked car outside a business premises. Following checks, the vehicle was found to be not taxed or insured. The individual stated that the car belonged to his father, who he was waiting for and claimed that car had been purchased the day before and was now insured. Warning markers and intelligence regarding drug supply were found for the individual. A small amount of cannabis was located on the individual during the search.  Members agreed that the quality of engagement was good and that the search was conducted in an age-appropriate, professional way.  The recorded grounds were assessed as ‘weak’ due to a lack of any details regarding the reason for the engagement.  It was noted that the supervisor had recorded their feedback to the officer regarding the weakness of grounds.  **Video 4:** The individual was seen by officers riding an electric bike on the road. On noticing the officers, the individual attempted to disappear into a neighbouring industrial estate and was observed to abandon the bike and throw a small black phone into the river. Once stopped, the individual was searched in relation to suspected drugs offences and subsequently taken to a police station for a strip search based on previous intelligence and the behaviour displayed.  Members agreed that the action taken by officers was justifiable and the engagement was appropriate to the circumstances.  The recorded grounds were assessed as ‘strong’ due to the rationale and supported detail provided.  **Video 5:** A vehicle was stopped due to officers observing a moving traffic violation due to going through a red light. On speaking to the driver, a smell of cannabis came from the car and the driver’s eyes were seen to be glassy and bloodshot. A drugs wipe was conducted on the driver.  The recorded grounds for the original stop were assessed as ‘strong’; however, the link to suspected drugs offences was perceived by member to be tenuous. Discussion included the time of night that the stop took place, the driver’s occupation, and the lack of further detail regarding actions taken.  It was noted that the engagement was conducted well in despite distractions from a member of the public, but that there were some difficulties in explaining the grounds to the individual.  No actions were identified during discussions.  **Video 6:** An officer conducted a stop on a vehicle that they had been driving behind due to a strong smell of cannabis coming from it. When spoken to, one occupant admitted to having smoked cannabis and extinguished the ‘joint’ as they were being stopped. Two other well-known individuals were also in the vehicle.  Members expressed concern at the perceived risk to the officer dealing with multiple individuals, one of whom was identified as having multiple warning markers relating to drugs, and another being under the influence.  The recorded grounds were assessed as ‘moderate’, with more detail required to support the stop, such as mention of the warning markers and/or other intelligence on the vehicle and occupants.  Members discussed the impact of officer interpretation of any guidance for cannabis-related stops as the Misuse of Drugs Act and Police and Criminal Evidence (PACE) CodeA make no reference to whether the smell of cannabis alone provides reasonable grounds. However, the College of Poling Authorised Professional Practice (APP) provides several considerations for officers to help decide whether their grounds for a cannabis search are reasonable. These include:   * Attribution – whether a specific person in a group of people, or if the smell could have come from somewhere else or a previous occupant of a car * Likelihood of finding any cannabis on the person * Genuine suspicion – whether there is an objective basis for that suspicion based on facts, information and/or intelligence * How the grounds would sound to a reasonable person * Behavioural factors – e.g., being seen to swallow, hide or discard something; being seen or found to be intoxicated; admission of possession or recent contact with drugs * Contextual factors - including age, location, time of night, physical description, avoidance of contact with the police, and being seen is possession or close to drugs paraphernalia. * Application of the National Decision Model.   Once an officer has decided to carry out a search for cannabis, he or she must ensure that all the grounds for the search are explained and recorded, so that the search can be fully justified. The APP states that Supervisors should also consider the above when monitoring and supervising the use of stop and search powers.  **Conclusion**  Gwent Police remains committed to the continuous improvement of stop and search practices, which is demonstrated through its governance processes. The strength of grounds remains a recognised area for improvement for the force. Improvements have been seen in line with feedback provided by the LSP, particularly in respect of engagement with children. Other improvements linked to feedback around areas such as training may take longer to become visible within operational practices due to the timescales required for delivery to frontline officers. These actions remain under review for the next two LSP sessions to ensure that the desired outcomes are seen within a reasonable timeframe.  LSP sessions are one way of ensuring that voices from communities most likely to be affected by police powers are heard. Gwent Police is undertaking additional activity to ensure that, more widely, these communities are provided with opportunities to review and discuss how stop and search is used, and to provide feedback on their experiences. Outcomes from this engagement will be fed through the Diversity and Inclusion Team to enhance the information available to the force and the OPCC to support internal scrutiny and improvement processes. |
| **3.** | **NEXT STEPS**  Progress will continue to be tracked and monitored by the OPCC through LSP exercises and via the Coercive Powers Scrutiny Board and other associated internal meetings as appropriate. The OPCC will continue to engage directly with the Head of Operational Support to contribute to and support the force’s work in this area.  To support better public awareness and understanding of the outcomes of local activity, Gwent Police’s stop and search data is available on their website at [Stop and Search | Gwent Police](https://www.gwent.police.uk/police-forces/gwent-police/areas/about-us/about-us/stop-and-search/). A link is also provided on the relevant page of the OPCC website. |
| **4.** | **FINANCIAL CONSIDERATIONS**  LSP members’ costs are met by Gwent Police in undertaking this role as part of the Independent Advisory Group function; currently there are minor costs for the OPCC in providing refreshments for the Panel due to the duration of face-to-face scrutiny exercises. However, financial consideration would need to be given to the addition of other independent members in line with existing volunteer schemes. |
| **5.** | **PERSONNEL CONSIDERATIONS**  The scrutiny exercise is undertaken as part of the OPCC’s normal working arrangements, and support is provided by Gwent Police colleagues to ensure access to data and BWV footage as appropriate. |
| **6.** | **LEGAL IMPLICATIONS**  Under section 5.4 of PACE Code A, Chief Constables, in consultation with Police and Crime Commissioners, must make arrangements for stop and search records to be scrutinised by representatives of the community, and to explain the use of the powers at a local level. The exercise also falls within the Commissioner’s wider accountability duties. |
| **7.** | **EQUALITIES AND HUMAN RIGHTS CONSIDERATIONS**  Legitimacy and fairness form an objective within the Joint Strategic Equality Plan 2020-2024 and the LSP process is a core activity within this objective. Under the Equality Act 2010, in carrying out their functions, police officers must pay due regard to the need to eliminate unlawful discrimination, harassment and victimisation; to advance equality of opportunity between people who share a relevant protected characteristic and people who do not share it; and take steps to foster good relations between those persons.  The scrutiny process aims to help demonstrate that police powers are being used effectively, proportionately, and justifiably across all communities in Gwent.  Consideration has been given to requirements of the Articles contained in the European Convention on Human Rights and the Human Rights Act 1998 in preparing this report. Any decision to exercise the powers contained within stop and search procedures must be based on the principles of legality, legitimate aim and proportionality as required under the Human Rights Act. |
| **8.** | **RISK**  Stop and search has the potential to negatively affect public confidence in the police if not carried out appropriately and with consideration of an individual’s needs. Children may be more likely to find the experience of stop and search traumatic which may have long-term effects on their perceptions of the police.  The scrutiny process aims to help ensure that encounters are undertaken appropriately. For the purposes of the exercise all data is anonymised, and members of the LSP have been vetted according to Gwent Police processes. A robust Terms of Reference sets out the expectations of members whilst engaged in the scrutiny process. This is reviewed annually to ensure it remains fit-for-purpose. |
| **9.** | **PUBLIC INTEREST**  The scrutiny exercise can help promote public confidence in the use of Police powers. The report is published externally on the OPCC website. |
| **10.** | **CONTACT OFFICER**  Caroline Hawkins – Policy Officer, Office of the Police and Crime Commissioner |
| **11.** | **ANNEXES**  None |