

Stop and Search Powers 2: Are the police using them effectively and fairly?

An inspection of Northumbria Police

August 2015

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ISBN: 978-1-78246-840-0

www.justiceinspectorates.gov.uk/hmic

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Introduction

In 2013, HMIC published its report, *Stop and Search Powers: Are the police using them effectively and fairly?* The report concluded that stop and search powers were rarely targeted at priority crimes in particular areas and there was very little understanding in forces about how the powers should be used most effectively and fairly to cut crime.

HMIC made ten recommendations in the 2013 report, and made a commitment to assess the progress made by forces and the College of Policing in carrying out the recommended action 18 months later.

Additionally, in 2014, the Home Secretary commissioned HMIC to:

- review other powers that the police can use to stop people, such as section 163 of the Road Traffic Act 1988, in order to establish that they are being used effectively and fairly;
- provide analysis of how forces in England and Wales compare with overseas jurisdictions, both in terms of the powers available and the way they are used; and
- examine the use of search powers involving the removal of more than a person's outer clothing, including strip searches, to identify whether these searches are lawful, necessary and appropriate.

In 2015, as part of the review of progress from 2013 and the reviews set by the Home Secretary, all forces were required to carry out a self-assessment and, to supplement that, HMIC carried out in-depth fieldwork in nine forces. Northumbria Police was one of those forces. The national report *Stop and Search Powers 2: Are the police using them effectively and fairly?*¹ was published on 24 March 2015.

Our findings in respect of Northumbria Police in relation to the recommendations made in 2013 are reported in part 1 of this report.

Methodology

As part of this inspection, all 43 Home Office forces in England and Wales and the British Transport Police were required to complete a self-assessment of their progress against the 2013 recommendations. They also submitted supporting documents including relevant policies and reports.

¹ Stop and Search Powers 2: are the police using them effectively and fairly? 2015, HMIC, London. Available from www.justiceinspectors.gov.uk/hmic

In January 2015, we carried out fieldwork in Northumbria Police and eight other forces in which we conducted:

- interviews with community representatives;
- interviews with senior managers;
- focus groups with a total of 50 operational sergeants and inspectors;
- focus groups with a total of 100 operational constables and PCSOs; and
- 237 knowledge checks.²

In order to verify and strengthen our findings, we carried out visits to police stations where we spoke with officers in intelligence units, investigation units, response teams, neighbourhood teams and custody suites. We observed briefings to see the information that officers received before going out on patrol and attended management meetings to observe how resources were deployed and managed.

² A short test of five questions on the application of the PACE Codes of Practice, Code A

Part 1 - Findings in relation to recommendations made in HMIC's 2013 report, *Stop and search powers: Are the police using them effectively and fairly?*³

This section sets out our findings from the self-assessment provided by Northumbria Police and the evidence collected from fieldwork in the force.

Recommendation 1 from 2013

Chief constables and the College of Policing should establish in the stop and search Authorised Professional Practice a clear specification of what constitutes effective and fair exercise of stop and search powers, and guidance in this respect. This should be compliant with the Code of Practice.

Grounds for recommendation 1

In our inspection in 2013 we found that, with a few exceptions, forces were not able to demonstrate how effective and fair their use of stop and search powers had been. Forces were unclear about what effective and fair meant in the context of stop and search encounters, and there was little evidence that officers were provided with guidance or instruction to assist their understanding.

Findings in relation to Northumbria Police regarding recommendation 1

Notwithstanding the absence of progress on the development of authorised professional practice, many forces have made efforts to define effective and fair stop and search encounters and have provided guidance and instruction to their officers.

Northumbria Police has a local policy on the use of stop and search powers, supported by a procedure document for stop and search encounters. Both are available to officers on the force intranet.

About half of all forces were able to provide us with their definition of what constituted an effective and fair stop and search encounter. However, while Northumbria Police did not have specific definitions of what constituted effective and fair use of the powers to assist and guide officers, it did have, in its stop and search procedure, some guidance on effective and fair use of the powers:

³ *Stop and search powers: Are police using them effectively and fairly?* HMIC, London, 2013. Available from www.justiceinspectors.gov.uk/hmic/media/stop-and-search-powers-20130709.pdf

"Northumbria Police understands how searches based on accurate, current and up to date intelligence or information are more likely to be effective. Targeting searches in a particular area, at specific crime problems, increases their effectiveness and reduces inconvenience to other members of the public. It also helps justify the use of searches to those who are searched and to the wider public.

"In each and every stop and search undertaken, officers should be mindful at all times that reasonable grounds for suspicion are based on accurate information or intelligence and that the search should be undertaken in accordance with Code A of the Police and Criminal Evidence Act. Reasonable grounds for suspicion based on a range of objective factors are more likely to secure public confidence.

In addition, the way in which a search is carried out can be as much of a success as an object being found subject of the search. A stop and search should be carried out in a courteous and professional way that will further demonstrate Northumbria Police's commitment to providing a quality service to its communities."

Officers we spoke to gave us various definitions of what they individually thought constituted an effective stop and search encounter, including when the encounter was seen as positive by the person stopped and searched, when criminal activity was prevented, when the need to make an arrest was negated, and when public confidence was increased.

Recommendation 2 from 2013

Chief constables should establish, or improve, monitoring of the way officers stop and search people so that they can be satisfied their officers are acting in accordance with the law (including equality legislation and the Code of Practice) and that the power is used effectively to prevent crime, catch criminals and maintain public trust. This monitoring should, in particular, enable police leaders to ensure officers have the reasonable grounds (and, where applicable, authorising officers have the reasonable belief) required by law to justify each stop and search encounter.

Grounds for recommendation 2

In 2013, HMIC found that very few forces could demonstrate that the use of stop and search powers was based on an understanding of what works best to cut crime, and rarely was it targeted at priority crimes in their areas. Forces had reduced the amount of data collected to reduce bureaucracy, but this had diminished their capability to understand the impact of the use of stop and search powers on crime levels and community confidence.

Of the 8,783 stop and search records HMIC examined in 2013, 27 percent did not include sufficient reasonable grounds to justify the lawful use of the power.

Findings in relation to Northumbria Police regarding recommendation 2

Similar to the vast majority of forces, Northumbria Police reported that it systematically collects information about stop and search encounters. However, the management oversight, conducted by the force's strategic management board, only includes a review of data relating to the arrest rate arising from stop and search encounters.

The force does not record the reason for arrest or whether or not the item searched for, or some other prohibited item, was found. For instance, a stop and search encounter involving the finding of an item which is dealt with by way of a fixed penalty notice, but the person is also arrested because a check on the police national computer revealed the person was wanted for a separate offence, would likely be recorded as an arrest resulting from a stop and search encounter.

Similarly, an encounter in which nothing is found which results in the arrest of the person for, say, disorderly conduct, would also be recorded as an arrest resulting from a stop and search encounter. In both examples, the arrest is not related to the finding of a prohibited item, and yet it will be recorded as a 'stop and search arrest'.

The deficiencies in the recording process mean that the force is not able to establish how frequently prohibited items were found and, therefore, the oversight process is unable to determine how effectively the powers are used i.e. how many arrests occur because the item searched for was found and the original suspicion proved to be accurate.

A number of other outcomes were recorded on the stop and search record, including if:

- no further action was taken;
- an arrest was made;
- a cannabis or khat⁴ warning was issued;
- a Penalty Notice for Disorder was issued;
- the person was reported for summons;
- a community resolution occurred; and
- a caution was issued.

⁴ A controlled drug capable of producing psychological dependence.

As well as monitoring arrests that did not relate to the finding of an item, and therefore were not related to the object of the search, the force did not include the other positive outcomes arising from the finding of a prohibited item, for instance, a cannabis warning or a caution relating to the finding of a prohibited item. This means the force did not analyse the information it received from stop and search encounters sufficiently to be able to determine if they were effective and fair.

The force monitored the ethnicity, age and gender of people stopped and searched to help it to determine fairness. We were encouraged to find that the force monitoring included a review of the frequency of the use of the powers on individual people, concentrating on those stopped and searched six or more times in a three-month period, which help it to determine if the powers were used fairly.

Similar to most forces, Northumbria Police also reported that it did not collect data about the prosecution or conviction rate arising from stop and search encounters, limiting its ability to determine effective use of the powers.

Northumbria Police is one of about three-quarters of forces that audited the use of the powers as part of a scheduled audit programme to check that they were lawfully carried out. The force has enhanced its audit regime to take into account the Home Office's Best Use of Stop and Search Scheme.⁵ Audits included a check to ensure legality, i.e. that the grounds recorded are reasonable. The most recent audit was carried out in October 2014.

The force also monitored the use of powers under section 60 of the Criminal Justice and Public Order Act 1994. However, the numbers reported are extremely low.

We were encouraged to find that the force had carried out some analysis to ensure that stop and search encounters were fair, including monitoring the data in respect of people who had been stopped and searched six or more times, analysis of the ethnicity of people stopped and searched and monitoring the legislation used, i.e. the Misuse of Drugs Act 1971 for drugs and the Police and Criminal Evidence Act 1984 for stolen property.

Recommendation 3 from 2013

Chief constables should ensure that officers carrying out stop and search encounters are supervised so that they can be confident that the law is being complied with and that the power is being used fairly and effectively. Particular attention should be given to compliance with the Code of Practice and equality legislation.

⁵ *Best use of stop and search scheme*, Home Office, 26 August 2014, <https://www.gov.uk/government/publications/best-use-of-stop-and-search-scheme>

Grounds for recommendation 3

Code A places a specific obligation on supervisors to monitor the use of stop and search in order to prevent its misuse, and directs that:

- “supervisors must monitor the use of stop and search powers and should consider, in particular, whether there is any evidence that the powers are being exercised on the basis of stereotypes or inappropriate generalisations;
- supervisors should satisfy themselves that the practice of officers under their supervision in stopping, searching and recording is fully in accordance with the Code; and
- supervisors must also examine whether the records reveal any trends or patterns which give cause for concern and, if so, take appropriate action to address them.”⁶

Findings in respect of Northumbria Police regarding recommendation 3

Similar to the vast majority of forces, Northumbria Police required supervisors to review the stop and search record. Officers, after conducting a stop and search encounter, are required to input the details to the force computer system and submit the hard-copy record to their supervisor.

The force also required supervisors to review the electronic record of the encounter to ensure it matched the hard copy. However, while the stop and search procedure set out the legal responsibility of supervisors, it provided no advice or guidance on what supervisors should consider when carrying out the review. It was concerning that the most recent audit carried out by the force, in October 2014, found that a substantial proportion of stop and search records across the force area did not have sufficient grounds recorded, despite them having been endorsed as reviewed by a supervisor.

Officers we spoke to were aware of the active supervision of the stop and search records they submitted but were not able to recall occasions when officers had been challenged by supervisors about their use of stop and search powers.

The force also monitored the input of information about stop and search records to ensure information and intelligence were entered in a timely manner. This helps to maintain the currency of the information and ensure that any intelligence and resultant analysis is up to date.

⁶ *Revised code of practice for the exercise by: Police Officers of Statutory Powers of stop and search*, Police and Criminal Evidence Act 1984, HM Government, December 2014, Code A, paragraph 5.1, www.gov.uk/government/uploads/system/uploads/attachment_data/file/384122/PaceCodeAWeb.pdf.

Recommendation 4 from 2013

The College of Policing should work with chief constables to design national training requirements to improve officers': understanding of the legal basis for their use of stop and search powers; skills in establishing and recording the necessary reasonable grounds for suspicion; knowledge of how best to use the powers to prevent and detect crime; and understanding of the impact that stop and search encounters can have on community confidence and trust in the police. Specific training should also be tailored to the supervisors and leaders of those carrying out stops and searches.

Grounds for recommendation 4

In 2013, we found that training, where it was given, was focused almost exclusively on law, procedure and officer safety and very little on what works best to catch criminals, or how officer behaviour can affect the way the encounter is experienced by the person being stopped and searched. We were worried that little was being done by forces to help officers understand how they should judge when they have reasonable grounds to stop and search, how they communicate these grounds to the person being searched and how they record them in accordance with the Police and Criminal Evidence Act 1984.

Addressing recommendation 4 is dependent on the development of a national training package by the College of Policing.

Recommendation 5 from 2013

Chief constables should ensure that officers and supervisors who need this training are required to complete it and that their understanding of what they learn is tested.

Grounds for recommendation 5

In 2013, we found that supervisors were given little or no training about how to supervise, or to help them understand what is expected of them. We found many examples of supervisors reviewing and signing stop and search records that clearly did not include a description of reasonable grounds for suspicion. For example, on one record signed by a supervisor, the grounds had been recorded as 'Parked in a remote car park after dark'.

Findings in respect of Northumbria Police regarding recommendation 5

Addressing recommendation 5 is first dependent on the development of a national training package which is not yet available (see recommendation 4 above). Notwithstanding the absence of a national training package, Northumbria Police reported that it had improved the training it delivers to officers in respect of the use of stop and search powers.

The force reported that it had delivered face-to-face refresher training on the use of stop and search powers to all frontline officers, including 276 supervisors and 2,074 constables within the previous 18 months. The force considered that ensuring stop and search powers are used effectively and fairly was so important that it merited face-to-face training as opposed to e-learning.

The training included inputs on the codes of practice and the legality of searches, what must be recorded and why and procedural fairness. However, the training did not include inputs on behaviour detection training or unconscious bias

The supervisors we spoke to confirmed that knowledge in general about the use of stop and search powers had improved a great deal in the previous year. This was supported by the constables who felt more confident using the powers, and more knowledgeable in terms of what was required and how encounters should be conducted.

Recommendation 6 from 2013

Chief constables should ensure that relevant intelligence gleaned from stop and search encounters is gathered, promptly placed on their force intelligence systems, and analysed to assist the broader crime-fighting effort.

Grounds for recommendation 6

Intelligence is a valuable by-product of stop and search encounters. However, in 2013 we were surprised at how little effort was given to monitoring how effectively stop and search powers were used to prevent crime and catch criminals. Only five forces had an intelligence field included on their stop and search record, and in a further eight it was noted on the record that a separate intelligence submission had been made. In those forces that did gather intelligence, there was confusion as to whether the stop and search record acted as an automatic intelligence submission or whether a separate intelligence form should be submitted, and we saw evidence of delays in placing the intelligence onto computer systems. This reduced the quality of the intelligence available to officers. Very few forces carried out sufficient analysis to map the locations of stops and searches against recorded crime, or to link stop and search encounters to prosecutions and convictions.

Findings in respect of Northumbria Police regarding recommendation 6

We found that, while Northumbria Police did not have a system which automatically recorded details from stop and search encounters onto the intelligence system, it did require officers to telephone the force control room immediately after conducting a stop and search to create an electronic record. Once created, the record was available to intelligence unit staff who check details each day and assess whether intelligence gleaned should form part of briefing material to other officers.

Supervisors, as part of their oversight of the record, also check that the electronic record has been made and is accurate. This is a strong process by which the vast majority of intelligence from stop and search encounters is gathered.

Arranging for the control room to enter the details of each stop and search encounter onto the electronic database immediately after the encounter means that staff in the intelligence unit have access to current information about every stop and search encounter, who was involved and at what location. However, officers were not required to note on the stop and search record the description of the person or the clothing worn, for instance. This means that the force was unable to link descriptions of people who have been stopped and searched to descriptions of crime suspects.

While the stop and search record provided a good deal of information valuable to the intelligence unit, officers often glean more intelligence from people stopped and searched that cannot be recorded on the record. The decision about whether or not to submit separate intelligence from a stop and search encounter beyond that recorded on the record is left to the officers' discretion. However, the force requires any intelligence submission to be made before the end of the officer's tour of duty. The manual of guidance encourages officers to gather and submit intelligence from such encounters but there is no intelligence field on the Northumbria Police stop and search record in which to record it. There is also no reminder or field for the officer to 'tick' to show that separate intelligence has been submitted.

Northumbria Police, along with about half of all forces, reported that it mapped the locations of stop and search encounters to assist with analysis, and also that it mapped this data against crime patterns, similar to about a third of all forces.

Recommendation 7 from 2013

Chief constables should, in consultation with elected policing bodies, ensure that they comply with the Code of Practice by explaining to the public the way stop and search powers are used in their areas and by making arrangements for stop and search records to be scrutinised by community representatives.

This should be done in a way that involves those people who are stopped and searched, for example, young people.

Grounds for recommendation 7

In 2013, we found that fewer than half of forces complied with the requirement in Code A to make arrangements for the public to scrutinise the use of stop and search powers. Recognising the importance of keeping the public informed, it is surprising how little forces consulted or communicated with the public about their use of stop and search powers. Almost half of forces did nothing to understand the impact of stop and search encounters on their communities, with only a very small number proactively seeking the views of the people and communities most affected.

Findings in respect of Northumbria Police regarding recommendation 7

Northumbria Police was one of the five forces of the nine we visited to have introduced independent scrutiny panels or monitoring groups. The force had created a sub-group of the Strategic Independent Advisory Group to oversee the use of stop and search powers which has focused on minority groups affected by the tactic such as children and young people. However, the group did not review any stop and search records but merely considered the data presented to it by the force which, as discussed in the progress on recommendation 2 on page 6, was limited to the arrest rate in terms of outcomes.

Over half of forces, including Northumbria Police, now publish information for the public which would help to explain the use of stop and search powers in their area. However, the statistics published by the force are limited to the number of stop and search encounters carried out each month broken down by policing area, ethnicity and arrest rate.

The force published the stop and search policy on its website but did not publish the stop and search procedure. Unlike some forces, it did not publish maps of the locations of stop and search encounters.

To comply with the Home Office's Best Use of Stop and Search Scheme, the majority of forces have developed or enhanced lay observer schemes in which members of the public can accompany police officers on shifts when they might use stop and search powers. Northumbria Police was developing a similar scheme, a community opportunity programme, but had not implemented it at the time of our inspection. However, it was recognised that the programme to allow members of the public to accompany officers on patrol is unlikely to result in them witnessing first-hand an officer conducting a stop and search encounter, as the frequency of stop and searches will always mean that it would be difficult for a member of the public to observe the tactic

The stop and search procedure included a paragraph setting out that, in order to promote public confidence in the use of these powers, Northumbria Police, in consultation with the Office of the Police & Crime Commissioner, had made arrangements for stop and search performance information to be scrutinised by the police and crime commissioner on behalf of the community, and to explain the use of the powers at a local level. An explanation of the use of the powers is available on both the force and the PCC's website.

Recommendation 8 from 2013

Chief constables should ensure that those people who are dissatisfied with the way they are treated during stop and search encounters can report this to the force and have their views considered and, if they wish, make a formal complaint quickly and easily. This should include information about dissatisfaction reported to other agencies.

Grounds for recommendation 8

In 2013, we carried out a survey of people who had been stopped and searched⁷. Of the 391 respondents, there were too many occasions when people felt that the police had not treated them with respect (47 percent) or had not acted reasonably (44 percent). Thirty-nine percent said their experience of being stopped and searched lowered their opinion of the police. Of those people who said they were unhappy with the way they were treated by the police during the stop and search encounter, only 16 percent made a formal complaint. Many of those who did not complain, when asked why they had not done so, expressed a lack of faith in the complaints system.⁸

Findings in respect of Northumbria Police regarding recommendation 8

The copy of the stop and search record provided to people who have been stopped and searched includes details of the force website stop and search pages through which people may make a complaint. However, some officers told us that many people do not wish to wait for the copy of the record and, while the person can apply for a copy within three months, many do not.

The force website included a page through which people can make a complaint or raise issues about a stop and search encounter. Dissatisfaction and other issues can be informally raised or a formal complaint made. The opportunity for people to feed back about their stop and search experience was provided in the ebeat webpage aimed at young people, and could be accessed in the section 'Your right to complain' on stop and search page

While the force had developed the webpage for people to make formal complaints about their experiences of being stopped and searched, this is dependent on the person stopped and searched taking the initiative and visiting the site. Our 2013 survey results suggest that very few are likely to do that and so forces must take the initiative and put in place proactive measures to seek their views.

⁷ *Stop and Search Powers: Are the police using them effectively and fairly?* HMIC, 2013, www.justiceinspectorates.gov.uk/hmic/media/stop-and-search-powers-20130709.pdf

⁸ *IPCC position regarding police powers to stop and search*, IPCC, June 2009, www.ipcc.gov.uk/sites/default/files/Documents/guidelines_reports/stop_and_search_policy_position.pdf

We were disappointed to find that the force is one of the vast majority that did not actively seek information about dissatisfaction felt by people who had been stopped and searched.

The force had low numbers of complaints recorded as breaching Code A. In the main, there is still a reliance on low complaint numbers to justify why so little work has been done to establish why people feel dissatisfied about the manner in which they were stopped and searched, and to use that information to improve practices and strengthen public trust.

However, not all complaints that arise from stop and search encounters are recorded under the breach of Code A category. We found that other categories of complaint such as incivility, oppressive conduct, harassment, and lack of fairness and impartiality are more likely to be used to categorise complaints from stop and search encounters as these are often the behaviours that have given rise to the complaint. The force had done no analysis on complaints and may therefore be underestimating the number that actually arise from stop and search encounters.

It is a concern that Northumbria Police did not actively seek information about dissatisfaction from people who had been stopped and searched by way of follow-up contact or through community groups and was therefore unable to use it to improve performance and increase public trust.

Recommendation 9 from 2013

Chief constables should introduce a nationally agreed form (paper or electronic) for the recording of stop and search encounters, in accordance with the Code of Practice.

Grounds for recommendation 9

In 2013, we found a variety of forms used to record stop and search encounters in use by forces. They differed substantially in terms of layout and the type of detail to be recorded. One force had five different stop and search forms in circulation at the time of our inspection.

The recommendation involves the agreement of all chief constables in England and Wales and as such, is not a recommendation applicable solely to Northumbria Police.

Recommendation 10 from 2013

Chief constables should work with their elected policing bodies to find a way of better using technology to record relevant information about stop and search encounters which complies with the law and reveals how effectively and fairly the power is being used.

Grounds for recommendation 10

Our 2013 inspection found that technology had the potential to improve the effective, lawful and fair use of stop and search powers. However, although there were a number of interesting developments, limited use was being made of technology to record stop and search encounters at that time.

Findings in respect of Northumbria Police regarding recommendation 10

Northumbria Police recorded stop and search encounters on paper records. The force had no facility for officers to record with personal data assistants or mobile data technology. The paper record had been newly designed and the force reported that it was quick and user-friendly, although we found some officers who thought that it was cumbersome and the requirement to telephone the details to the control room resulted in duplication. The force did not use body worn video to record stop and search encounters. The use of body worn video in these circumstances may improve the effectiveness and fairness of encounters while, research suggests, also improving the behaviour of both the officers and the people stopped and searched⁹. However the force was content that it was achieving compliance with the current recording system and had no plans to implement further technology.

Conclusions for Part 1

The stop and search policy provided little information; however, it is supplemented by the stop and search procedure which provided guidance to officers about their use of stop and search powers. However, the procedure, while setting out salient parts of Code A in respect of legal compliance, did not provide guidance to officers on how to use the powers effectively and fairly.

It is encouraging that the force recorded a variety of outcomes resulting from stop and search encounters which allowed it to assess if the powers are being used effectively and fairly. However, simply monitoring ethnicity and arrest rates provides only a narrow picture of the impact of the use of stop and search powers. More needs to be done in terms of analysis and monitoring of a wider range of outcomes to understand effectiveness and fairness in the use of the powers and the force should differentiate between those outcomes, including arrests, that have directly arisen from the finding of a prohibited item and those that have not.

The force required supervisors to review each stop and search record, and check it against the electronic record. However, there was little evidence from the officers we spoke to that supervisors were feeding issues back to officers, and the force's own audit identified that some supervised records did not include reasonable grounds.

⁹ *Guidance for the Police use of body-worn video devices*, Police and Crime Standards Directorate, Home Office, July 2007; *Picture This: body worn video devices ('headcams') as tools for ensuring fourth amendment compliance by police*, Harris, D., April 2010; and others.

More needs to be done to ensure supervisors are equipped to review the records, and their officers' use of the powers, effectively.

The force had implemented a monitoring structure in the form of a sub-group of the Strategic Independent Advisory Group. However, the group monitored only the data provided by the force which was limited to the number of stop and search encounters each month, broken down by policing area, ethnicity and arrest rate. The group did not review individual stop and search records. We were encouraged to find that the force analysed data to identify those people who had been stopped and searched more than six times and that it was assessing the outcomes of each encounter to ensure fairness.

It was encouraging that the force ensured that details of all stop and search encounters were entered electronically and were accessible to the force intelligence unit very soon after the encounter. The detail provides valuable intelligence relatively quickly to the intelligence unit staff to assist in crime detection and prevention. The force needs to ensure that officers also submit intelligence over and above that recorded on the stop and search record.

Mapping the locations of stop and search encounters against the locations of crime reports helps the force to prevent and detect crime while also helping to assess the effectiveness of the use of the powers.

The force publishes only limited data in respect of stop and search encounters and this should be improved. The force should also consider implementing a process, perhaps through the sub-group of the Strategic Independent Advisory Group, by which members of the public can regularly take part in scrutiny of the use of stop and search powers.

It is disappointing that there has been little effort expended by the force to find out if and why people feel dissatisfied about their stop and search experience. Similarly, the force is not actively exploring the use of technology to assist its officers to use stop and search powers effectively and fairly.

Overall, we found that Northumbria Police had more to do to make its use of stop and search powers more effective and fairer.

Part 2 - How effectively and fairly does Northumbria Police use section 163 of the Road Traffic Act 1988?

In addition to requesting HMIC to inspect further on the progress that police forces had made since the 2013 inspection, the Home Secretary commissioned HMIC to:

“Review other powers that the police can use to stop people, such as section 163 of the Road Traffic Act 1988, in order to establish that they are being used effectively and fairly.”

Powers to stop vehicles

In our 2013 report, we highlighted that some people believed that they had been stopped and searched when, in fact, they had been stopped and spoken to by an officer or stopped in their car under the Road Traffic Act – without a search taking place¹⁰.

In England and Wales, police officers’ powers to stop vehicles are enshrined in section 163 Road Traffic Act 1988, which states:

“A person driving a motor vehicle on a road must stop the vehicle on being required to do so by a constable in uniform”¹¹

Unlike stop and search powers which are subject to the requirements of a statutory Code of Practice¹², this power does not require an officer to have any particular reason to stop a motor vehicle and there is no requirement for the officer to explain why he or she has carried out the stop.

¹⁰ *Stop and Search Powers: Are the police using them effectively and fairly?* HMIC, July 2013, page 18, www.justiceinspectorates.gov.uk/hmic/media/stop-and-search-powers-20130709.pdf

¹¹ *Road Traffic Act 1988* s.163, www.legislation.gov.uk/ukpga/1988/52/section/163

¹² *Revised code of practice for the exercise by: Police Officers of Statutory Powers of stop and search*, Police and Criminal Evidence Act 1984, HM Government, December 2014, Code A www.gov.uk/government/uploads/system/uploads/attachment_data/file/384122/PaceCodeAWeb.pdf

Findings in respect of Northumbria Police regarding section 163 of the Road Traffic Act 1972

While work had been undertaken to understand how well officers used powers of stop and search, much less had been done to understand how well they used the Road Traffic Act power to stop vehicles.

The force did not have a policy on the use of the Road Traffic Act power and officers were not required to record their use of the power. This is not to say that individual officers never record these encounters. From our interviews with officers, we found that in addition to those stops that were not recorded, the use of this power was sometimes recorded in a pocket notebook, on a fixed penalty notice where one was issued or on the Police National Computer if the officer had conducted a check of the person or vehicle concerned. However, we found that, on those occasions when a stop was recorded, it was done so in an ad hoc manner and not according to any particular system that might allow effective oversight of the use of the power.

Due to the absence of recording requirements, supervision of the use of the power did not take place and the force is not able to carry out work to understand if the power is used effectively and fairly, or how the use of the power affects public trust. Like the vast majority of forces, Northumbria Police had not designated a senior manager to oversee the use of the power.

However, some training on the use of the power has been provided to traffic officers and other uniformed officers but this did not include how the power can be used effectively and fairly and officers we spoke to told us they had not received training about the use of the power.

How effectively and fairly do police community support officers use their powers to search for and seize alcohol and tobacco?

The Police Reform Act 2002 enables forces to designate police community support officers (PCSOs) with the power to seize alcohol from any person they reasonably suspect to be in possession of alcohol, who is under the age of 18 and in a public place or place to which the person has gained unlawful access¹³. It also allows forces to designate PCSOs with the power to seize tobacco from any person under the age of 16 who they find smoking in a public place¹⁴.

¹³ Police Reform Act 2002, Schedule 4, Powers exercisable by police civilians, Part 1, Community Support Officers, paragraph 6 www.legislation.gov.uk/ukpga/2002/30/schedule/4

¹⁴ Police Reform Act 2002, Schedule 4, Powers exercisable by police civilians, Part 1, Community Support Officers, paragraph 7 www.legislation.gov.uk/ukpga/2002/30/schedule/4

In order to discharge these powers effectively, the Police Reform Act provides PCSOs with the power to search for the items if they reasonably believe the person is in possession of them¹⁵. Police forces have a choice whether or not to designate these powers to their PCSOs.

HMIC asked all forces to provide a self-assessment of their use of the Police Reform Act 2002 powers to establish if they were making effective and fair use of these. We undertook further testing in this area while conducting fieldwork in the nine forces chosen for the inspection.

Findings in respect of Northumbria Police regarding powers under the Police Reform Act 2002

We found that Northumbria Police had a formal procedure in place for the seizure of alcohol but not for the seizure of tobacco. However, this set out the legal requirements and did not provide guidance on how the powers should be used so as to be effective and fair. The force reported that it provided training to PCSOs in respect of Police Reform Act powers as part of initial training, but not thereafter.

Northumbria Police reported that it did not require PCSOs to record the use of the Police Reform Act powers. However, we found that some records are made when other processes are involved – for instance, when fixed penalty notices are issued. However, the records are not collated and are not then reviewed to determine how effectively and fairly the powers are being used. The force was unable to provide us with either the number of times the powers had been used or detail of the outcomes.

We found that no monitoring of the use of the powers at force level had occurred and no audits had been undertaken to determine if the powers were used effectively and fairly. The force had not designated a senior manager to oversee the use of the powers. However, we found some good monitoring at a local level with neighbourhood policing teams, in accordance with the seizure of alcohol policy, identifying those young people who had had alcohol seized from them on two occasions, at which point they were referred to the local youth offending team for intervention. Where those young people had alcohol seized from them on a third occasion, they were prosecuted. The limited number of prosecutions was seen by the officers we spoke to as indicative that the three-step process was changing behaviour and had been effective. The local teams also monitored the impact of alcohol seizure on the number of reported anti-social behaviour incidents involving young people congregating in public places.

¹⁵ Police Reform Act 2002, Schedule 4, Powers exercisable by police civilians, Part 1, Community Support Officers, paragraph 7A www.legislation.gov.uk/ukpga/2002/30/schedule/4

We found far less evidence of supervision by sergeants of the way the powers were being used than is the case for stop and search. Some of the supervisors we spoke had only a limited knowledge of PCSOs powers in respect of alcohol and tobacco seizure. We believe that part of the reason for this is the fact that the power can only be used by PCSOs, meaning that sergeants have no experience of using it themselves (unless they had been a PCSO before becoming a constable) and therefore lack the knowledge and confidence to check properly the work of the PCSOs. Similarly, we found that many of the constables we spoke to also had little knowledge of PCSO powers to seize alcohol and tobacco.

Conclusions for Part 2

In Part 2 of this inspection, due to the absence of records we were unable to assess how efficiently and fairly officers in Northumbria Police use the Road Traffic Act power to stop vehicles, and the Police Reform Act powers to search for and seize alcohol and tobacco.

Also, unlike the situation with stop and search, Northumbria Police did not have in place policies that guide officers about how to use the Road Traffic Act power effectively and fairly. Oversight of the Police Reform Act power is better with a formal procedure in place for the seizure of alcohol – but not tobacco. However, the policy offered an explanation of PCSO powers, including those under the Police Reform Act powers, but did not offer guidance as to how they can be used effectively and fairly. For both Road Traffic Act and Police Reform Act powers, Northumbria Police demonstrated little commitment to collecting information and using this to oversee their fair and effective use.

The absence of reliable data about the use of the Road Traffic Act and Police Reform Act powers has meant that Northumbria Police cannot demonstrate to us that it is using these powers effectively and fairly.

In our report *Stop and Search Powers 2: Are the police using them effectively and fairly?*¹⁶, we made recommendations to all forces in respect of the use of these powers.

¹⁶ *Stop and Search Powers 2: Are the police using them effectively and fairly?* HMIC, 2015, London, HMSO. Available from www.justiceinspectors.gov.uk/hmic

Part 3 - Searches involving removal of more than an outer coat, jacket or gloves.

As part of this inspection, HMIC was commissioned by the Home Secretary to examine the use of search powers involving the removal of more than a person's outer clothing, including strip searches, to identify whether these searches are lawful, necessary and appropriate.

- Code A¹⁷ informs police officers about how to conduct stop and search encounters, and makes certain distinctions about what clothing can be removed and where searches can take place. The following extracts from Code A describe what can and cannot be done in relation to the removal of clothing during a search.
- “There is no power to require a person to remove any clothing in public other than an outer coat, jacket or gloves, except under section 60AA of the Criminal Justice and Public Order Act 1994 (which empowers a constable to require a person to remove any item worn to conceal identity).”¹⁸
- “Where on reasonable grounds it is considered necessary to conduct a more thorough search (e.g. by requiring a person to take off a T-shirt), this must be done out of public view, for example, in a police van unless paragraph 3.7 applies, or police station if there is one nearby. Any search involving the removal of more than an outer coat, jacket, gloves, headgear or footwear, or any other item concealing identity, may only be made by an officer of the same sex as the person searched and may not be made in the presence of anyone of the opposite sex unless the person being searched specifically requests it.”¹⁹
- “Searches involving exposure of intimate parts of the body must not be conducted as a routine extension of a less thorough search, simply because nothing is found in the course of the initial search. Searches involving

¹⁷ Revised code of practice for the exercise by: Police Officers of Statutory Powers of stop and search, Police and Criminal Evidence Act 1984, HM Government, December 2014, Code A, www.gov.uk/government/uploads/system/uploads/attachment_data/file/384122/PaceCodeAWeb.pdf

¹⁸ Revised code of practice for the exercise by: Police Officers of Statutory Powers of stop and search, Police and Criminal Evidence Act 1984, HM Government, December 2014, Code A, paragraph 3.5, www.gov.uk/government/uploads/system/uploads/attachment_data/file/384122/PaceCodeAWeb.pdf

¹⁹ Revised code of practice for the exercise by: Police Officers of Statutory Powers of stop and search, Police and Criminal Evidence Act 1984, HM Government, December 2014, Code A, paragraph 3.6, www.gov.uk/government/uploads/system/uploads/attachment_data/file/384122/PaceCodeAWeb.pdf

exposure of intimate parts of the body may be carried out only at a nearby police station or other nearby location which is out of public view (but not a police vehicle).²⁰

In effect, Code A specifies three levels of search that are characterised by their increasing level of intrusiveness:

- A search involving no removal of clothing other than an outer coat, jacket or gloves;
- A search involving more than removal of an outer coat, jacket or gloves but not revealing intimate parts of the body; and
- A search involving more than the removal of an outer coat, jacket or gloves which reveals intimate parts of the body, often referred to as a strip-search.

While the code stipulates that there is only a power to require the removal of more than an outer coat, jacket or gloves out of public view, the accompanying guidance notes provide the officer with the opportunity to ask the person voluntarily to remove more than that clothing within public view.²¹ However it does not give any further guidance on how this should be conducted.

Findings in respect of Northumbria Police regarding stop and search encounters requiring the removal of more than outer coat, jacket or gloves

Unlike most other forces, Northumbria Police provided guidance to its officers, in the stop and search procedure document, about stop and search encounters which require the removal of more than a person's outer coat, jacket or gloves. However, this was limited to a reiteration of the relevant paragraphs of Code A.

Also unlike the majority of forces, we were encouraged to find that officers note on the stop and search record where clothing was removed and whether or not intimate body parts were exposed. From 1 November 2013 to 31 October 2014, the force recorded 287 stop and search encounters in which clothing was removed, of which 35 of those searched were female. This is valuable in terms of information and means that the force is able to monitor those stop and search encounters in which

²⁰ *Revised code of practice for the exercise by: Police Officers of Statutory Powers of stop and search*, Police and Criminal Evidence Act 1984, HM Government, December 2014, Code A paragraph, 3.7, www.gov.uk/government/uploads/system/uploads/attachment_data/file/384122/PaceCodeAWeb.pdf.

²¹ *Revised code of practice for the exercise by: Police Officers of Statutory Powers of stop and search*, Police and Criminal Evidence Act 1984, HM Government, December 2014, Code A, Notes for Guidance on Recording: www.gov.uk/government/uploads/system/uploads/attachment_data/file/384122/PaceCodeAWeb.pdf

clothing was removed, including strip searches. However, the force did not include this information as part of the data it used to monitor the use of the powers. It was also not part of the most recent audit of the use of the powers. The force was also, due to the recording requirements, unable to establish whether the clothing removed was more than outer coat, jacket or gloves; amending the recording requirements would help to align it with the requirements of Code A.

The force had not carried out any work to establish how stop and search encounters involving the removal of more than outer coat, jacket or gloves affect public trust, and neither had it carried out any work to establish how effective and fair the use of the powers were in such circumstances.

The stop and search procedure, while reiterating Code A in that searches requiring the exposure of intimate parts of the body must take place at a police station or some other place out of public view (but not a police vehicle), provided no guidance to officers on where such stop and search encounters should be conducted.

We were surprised to find that some senior officers considered that there would never be an occasion where a stop and search encounter would require the exposure of intimate parts of the body, instead suggesting that the person would first be arrested, and then strip searched whilst in custody at the police station. However, officers we spoke to indicated that stop and search encounters involving the exposure of intimate body parts did indeed occur. Officers told us that such stop and search encounters are conducted in the custody suite under the authorisation of the custody officer. Force procedure advises officers that searches involving exposure of intimate parts of the body should be carried out only at a nearby police station or other nearby location which is out of public view (but not a police vehicle).

It was disappointing that some senior officers were not aware that such intrusive stop and search encounters are taking place and they should monitor those occasions. To help with monitoring of all stop and search encounters involving the removal of more than outer coat, jacket or gloves, including strip-searches, it would be prudent for the force to gather data on the items of clothing removed, if intimate parts of the body were revealed and the gender of all persons present. The resulting data sets are likely to be valuable to determine appropriateness and necessity.

Due to the absence of monitoring of stop and search encounters involving the removal of more than outer coat, jacket or gloves, the force is not able to determine if the actions of its officers in this regard are effective and fair, or what impact the removal of more than outer coat, jacket or gloves has on public trust.

While the force had taken steps to record the occasions on which more intrusive searches were carried out, it is worrying to us that senior leaders did not know, as a matter of course, how frequently their officers had conducted more intrusive searches, including strip searches, and were unable to assess if they were appropriate or necessary.

Conclusion for Part 3

The power of a police officer to stop a member of the public in the street and search them is an intrusive one. The ability to remove clothing that reveals the intimate parts of the person's body is extremely intrusive.

HMIC would expect the level of scrutiny that takes place on stop and search encounters to increase in line with the level of intrusion. However, this was not the case in Northumbria Police. While we were encouraged that the force was able to identify those stop and search encounters that involve the removal of more than outer coat, jacket or gloves and those that involved exposure of intimate body parts, it carried out no more scrutiny of those, sometimes very, intrusive searches than it carried out for searches that do not involve the removal of such clothing. The force is unable to determine if such stop and search encounters were necessary or appropriate.

The current lack of adequate additional scrutiny of these types of stop and search encounters does not allow the force to safeguard the rights of individuals and ensure they are not being breached. It also does not provide the force with any ability to identify officers who may require additional training, advice or discipline.

We were also concerned that officers had been provided with little guidance on how to conduct those stop and search encounters that require the removal of more than outer coat, jacket or gloves.

In our report *Stop and Search Powers 2: Are the police using them effectively and fairly?*, we made recommendations to all forces in respect of stop and search encounters involving the removal of more than outer coat, jacket or gloves²².

²² *Stop and Search Powers 2: Are the police using them effectively and fairly?* HMIC, 2015, London, HMSO. Available from www.justiceinspectors.gov.uk/hmic