

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

An inspection of West Yorkshire Police

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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. West Yorkshire 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 West Yorkshire Police in relation to the recommendations made in 2013 are reported in part 1 of this report.

Our inspection of the use of powers to stop people (other than specific stop and search powers), and the use of stop and search powers that involve the removal of more than outer clothing, are reported in parts 2 and 3 of this report.

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

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.

In January 2015, we carried out fieldwork in West Yorkshire 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 respect of 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 West Yorkshire 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 respect of the West Yorkshire 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.

West Yorkshire Police had a formal policy guiding officers about their use of stop and search powers. The policy had very recently been amended to provide more comprehensive guidance to officers. Despite the policy being available on the force intranet, officers we spoke to were not aware of it, including those who had contributed to the redrafting of the amendments such as those in the professional standards department. The policy sets out that the use of the powers must be effective and fair and included the following policy statement to support it, taken from HMIC's 2013 inspection report *Stop and Search Powers: Are the police using them effectively and fairly*.

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

“For a stop and search to be effective and lawful, a police officer must have reasonable grounds for suspicion (based on specific and objective information) that a person is in possession of a stolen or prohibited item.

Those grounds should be fully explained to the person being stopped and searched, and the person should be treated with fairness, courtesy and respect.

In such circumstances, finding the item and arresting the offender or, alternatively, eliminating the suspicion and avoiding an unnecessary arrest are both valid and successful outcomes”.

The force sets out in its new policy that it measures the success of stop and search encounters on the basis of the quality of encounters rather than the quantity, directing officers to act on accurate intelligence or information, fully explain the reasons for their actions, justify the grounds and the objective of the search and record every encounter. However, there was no comprehensive definition of what constituted a successful or quality stop and search encounter and no reference to the actual measures used to monitor the effectiveness or success of encounters.

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 tackle 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 respect of the West Yorkshire Police regarding recommendation 2

Similar to the vast majority of forces, West Yorkshire Police systematically collects information about stop and search encounters.

We found that West Yorkshire Police no longer monitored individual officers in respect of the number of stop and search encounters they carried out and the use of stop and search powers, and were encouraged that it was not seen as a performance measure. The force analysed and monitored trends in the use of stop and search powers and identified any disproportionate use of stop and search across a range of protected characteristics. The force undertook monthly analysis of data from each policing area which was reported to the senior officers in each area in meetings known as local accountability meetings. However, the monitoring at meetings included only:

- the total monthly number of stop and search encounters;
- the reason for the use of the powers;
- the ethnicity of those stopped and searched;
- the outcomes: arrest, other positive outcome and other outcome; and
- a review of a sample of stop and search records.

While we were pleased to find that the force required its officers to record if they had found the item searched for, or some other prohibited item, there was no analysis carried out to identify how many times the item searched for had been found, or the number of times some other prohibited item had been found. Such analysis would help the force to establish how often the reasonable grounds for suspicion were proved to be accurate.

The outcomes recorded by officers on the stop and search record and monitored at the local accountability meetings had been updated as a result of the Home Office's best use of stop and search scheme and were:

- Arrest;
- Summons;
- Caution;
- Khat or cannabis warning;
- Penalty notice for disorder;

- Community resolution; and
- No further action.

The force, when monitoring the outcomes of stop and search encounters considered only the arrest rate, other positive outcomes and other outcomes. In its monitoring, the force did not differentiate between those arrests made because the original suspicion was accurate, those arrests made where a different item than that suspected was found, and those arrests made which were not connected at all to the original suspicion or the finding of an item. This inhibits the force's ability to determine the effectiveness of the use of the powers.

As well as including arrests that did not relate to the finding of an item, and therefore not related to the object of the search, the force monitored other positive outcomes. These included those outcomes from stop and search encounters which do not relate to the finding of a prohibited item, for instance, a caution or summons for disorderly behaviour, or a Penalty Notice for Disorder.

The force monitors the frequency with which officers were using stop and search powers to establish if individual officers might be overusing them, through individual performance meetings known as individual accountability meetings. However, the force did not monitor the frequency with which some people were stopped and searched to assess if people were being unfairly targeted.

The force reported that it collected data about the prosecution and conviction rate arising from stop and search encounters. However, these data were not included in either monthly or quarterly monitoring, limiting the force's ability to determine effective use of the powers.

However, we were pleased to find that, in each policing area, the monthly monitoring includes a review of a sample of stop and search records to determine if the records are completed accurately and that the grounds recorded are reasonable. We considered this to be good practice. We tested the results of a review in one area and found them to be sufficiently comprehensive and challenging, and included a record of challenges made and remedial action carried out. We were also pleased to find that, in each district, the independent advisory group reviews a small number of stop and search records each month and calls officers in to explain or clarify any ambiguities.

Similar to the majority of forces, West Yorkshire Police included a field in its custody system to show whether an arrest has resulted from a stop and search encounter. This helps the force not only to record outcomes more accurately but also to assess the effectiveness and fairness of how it uses the powers.

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.

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.”⁴

In 2013, we found little evidence that supervisors observed their constables using stop and search powers. There were inconsistencies in the recording of searches, evidence that people searched were not always provided with the information required by Code A and that they were not always fairly treated.

Findings in respect of West Yorkshire Police regarding recommendation 3

Similar to the vast majority of forces, West Yorkshire Police required supervisors to review the stop and search record. The stop and search policy includes guidance to supervisors on how they should carry this out. When a stop and search record is created an automatic email is sent to the officer’s supervisor requiring them to audit the stop and search record. Supervisors have the option to 'approve', 'refer for clarification', or 'not approve' a record.

Where an officer has multiple records not approved within a certain time period, the system highlights this to the officer’s supervisor so that it can be addressed appropriately.

⁴ 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.

The force carried out regular dip-sampling of stop and search records to ensure supervisors were carrying out their supervisory duties.

Most of the officers we spoke to were aware of the active supervision of the stop and search records they submitted and many, but not all, were able to recall occasions when they or colleagues had been challenged by supervisors about the detail recorded.

Similar to many other forces, supervisors in West Yorkshire Police told us that they have little time to patrol with their officers and actively to supervise the use of stop and search powers on the streets. This was supported by many of the constables we spoke to who confirmed that they received little hands-on guidance.

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 the West Yorkshire 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, some forces including West Yorkshire Police, have sought to improve the training of their officers on the use of stop and search powers.

New recruits in West Yorkshire Police receive training on stop and search powers as part of their initial training. Beyond that, we found training on the use of stop and search powers to be variable. The force was rolling out a training package but, at the time of our inspection, had not completed it. The force reported that, in the previous 18 months, 655 constables had received training on the use of stop and search powers. The force had not provided separate, bespoke training to supervisors but many had been trained alongside their officers at the constables' training sessions. The programme had not been completed at the time of our inspection and some officers had received no training beyond initial training when they were recruited which, for some, was many years ago. We were concerned to find that officers working in the criminal investigations department and other officers who investigate crime were not included in the training.

The training included information on legislation, unconscious bias and how to use the powers fairly. At the conclusion of the training, officers' knowledge was checked to ensure they have understood it. However, we found that the responsibility for developing the training had been devolved to local training officers. This had led to a variance in the training content being delivered in local policing areas which may have resulted in differing levels of knowledge among officers, particularly as some training was more reliant on the use of electronic computer packages, which officers we spoke to considered to be far less effective than face-to-face training.

We found that some officers were reluctant to use their stop and search powers because they were not confident of their knowledge. This could result in occasions when the powers are not used when it would be appropriate to do so, and opportunities to prevent or detect crime may be missed.

West Yorkshire Police was developing a range of training videos on stop and search aimed at new recruits, all frontline officers, supervisors and annual refresher training.

We were disappointed to find that the independent advisory group had not been meaningfully involved in the development of the training programme which might have been particularly valuable in respect of youth and cultural issues. However, we were pleased to find that the police and crime commissioner had commissioned the independent advisory group to produce a video about the use of stop and search powers.

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 the West Yorkshire Police regarding recommendation 6

Similar to the vast majority of forces, West Yorkshire Police reported that the details of stop and search encounters were not recorded automatically onto the intelligence database. However, details of stop and search encounters were recorded on an electronic database at the time of the encounter and this included a description of the person and clothing worn. When a stop and search record included additional details of the person which were not already known by the force (for instance, new tattoos or a new address), a notification was automatically generated to the force information management unit for the person's intelligence record to be updated.

The stop and search record did not include a field in which officers could record other intelligence. The force relied on officers submitting a separate intelligence report with details of any intelligence. There was, however, a reminder to officers in the stop and search policy of the importance of intelligence. While officers are encouraged to gather intelligence, there is no time limit by which officers must submit it. The value of intelligence may reduce if submissions are late.

In relation to analysis, similar to about half of all forces, West Yorkshire Police mapped the locations of stop and search encounters and also considered them alongside the locations of reported crime to help it understand how best to prevent crime. The force had recently introduced electronic recording via the officer's radio equipment and this had improved the recording accuracy of the locations of stop and search encounters, consequently improving the accuracy of analysis and mapping.

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 the West Yorkshire Police regarding recommendation 7

Similar to over half of all forces, West Yorkshire Police published information to the public via its website which helps to explain the use of stop and search powers in its area. However, the information published on the stop and search page of the website is limited and did not include the force policy or any statistics about the use of stop and search powers. The only statistics published are in the middle of a document featuring equality data which appears on the equality page of the website. This is limited to stop and search data about gender, age and ethnicity; there are no data published about the reasons for, or outcomes from, stop and search encounters. There are no links or signposts from the stop and search page to this document. Members of the public searching for stop and search data are highly unlikely to find any.

Like all forces, West Yorkshire Police offered opportunities for members of the community to observe officers on patrol. However, it is recognised that, during a patrol period, observers may not witness officers conducting a stop search encounter.

We were encouraged to find that each local policing area had a scrutiny panel, with members of the community as panel members, to hold the force to account for the use of stop and search powers. The panels meet monthly and each reviews a small number of stop and search records. Where necessary, officers and supervisors are asked to attend the meetings to account for their actions.

In 2014, the police and crime commissioner introduced a youth independent advisory group to support the public scrutiny from a young person's perspective. This was reportedly extremely popular and there were over 40 members.

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 searched⁵. 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.⁶

Findings in respect of the West Yorkshire Police regarding recommendation 8

We found that West Yorkshire Police did not actively gather information about dissatisfaction relating to stop and search encounters; rather it considered the number of formal complaints made as an indication of how satisfied or dissatisfied people felt with regard to being stopped and searched. Our 2013 survey results suggest that very few are likely to make a complaint and so forces must take the initiative and put in place proactive measures to seek the views of people stopped and searched. West Yorkshire had not done this.

⁵ *Stop and Search Powers: Are the police using them effectively and fairly?* HMIC, 2013, www.justiceinspectors.gov.uk/hmic/media/stop-and-search-powers-20130709.pdf

⁶ *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

While the force had published information on its website about how to make a complaint, the police and crime commissioner had dedicated a page on his website encouraging people to share their experience of being stopped and searched. The force website did not promote this initiative and the link to the police and crime commissioner's website was not clearly marked or obvious and might easily be missed.

We found that West Yorkshire Police had not carried out analysis of complaints made as a result of stop and search encounters because of the low numbers of complaints it records as breaching Code A. 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 were likely to be used to categorise complaints from stop and search encounters as these are often the behaviours that give rise to the complaint. However, we found that the force had not conducted any analysis to establish if any complaints arising from stop and search encounters had been recorded under categories other than breach of Code A. It is important that scanning is conducted which includes the categories listed above to ensure that all complaints arising from stop and search encounters are identified and included in analysis.

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.

It is a concern that West Yorkshire Police, similar to other forces we visited, 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.

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 West Yorkshire 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 West Yorkshire Police regarding recommendation 10

In 2014, West Yorkshire Police changed the way it recorded stop and search encounters. All officers now record the details of stop and search encounters via their Airwave radio, passing the relevant detail to a member of staff in the control room, who simultaneously inputs the detail to the computer system, creating an electronic stop and search record.

This approach has benefits in that the record is transferred to the computer system immediately and can be viewed by the staff in the intelligence unit. Additionally, supervisors if monitoring the radio transmissions can hear the officer relaying the details of the encounter, particularly the grounds for the use of the powers. However, perhaps most importantly, the person who has been stopped and searched can hear the grounds being explained by the officer.

However, we found that the efficiency of this system is variable and dependant on sufficient staff in the control room to record the details. Some officers told us that they are sometimes unable to make contact with the control room staff for this to be done and they input the encounter onto the computer system themselves when they next return to the station. This means that some encounters, if the officer forgets or is distracted by other tasks, may not be recorded at all and there would be no way for supervisors to identify if that had happened.

We were also told of occasional discrepancies between the explanation given by the officer and the electronic record made by the control room staff. This needs strengthening as it might result in people being given inaccurate information if they request a copy of the stop and search record.

Some officers also used body worn video while on patrol and stop and search encounters were recorded.

The use of body worn video in these circumstances is likely to improve the effectiveness and fairness of encounters while, research suggests, also improving the behaviour of both the officers and the people stopped and searched⁷. However, the footage is not reviewed by supervisors.

Conclusions for Part 1

We were pleased to find improvement, to varying degrees, in almost all areas in which we made recommendations in 2013.

West Yorkshire Police had made efforts to improve the guidance it provides to its officers in respect of the use of stop and search powers, the Home Office Best Use of Stop and Search Scheme and section 60 of the Criminal Justice and Public Order Act 1994. However, the force could do more to provide guidance on what it considers to be a successful stop and search and how officers can use the powers effectively and fairly.

It is encouraging that the force records a variety of outcomes resulting from stop and search encounters which could help it to assess if the powers are being used effectively and fairly. However, the inability to link an arrest to the finding of the item searched for, or some other prohibited item, means the force was not able fully to assess effectiveness or fairness.

In monitoring the use of the powers, the force used a range of data but it was concerning that it considers arrests and other outcomes as positive, irrespective of whether they are linked to the finding of an item.

The force had invested in strengthening supervision of stop and search encounters with sergeants instructed to review all stop and search records, and supervision rates were monitored. The use of Airwave radios to create an immediate electronic record assisted supervisors in this regard.

The force had commenced a training programme but not all officers had completed it. The training delivered was described by some officers we spoke to as very good but the responsibility was devolved to local trainers and we found some variety in the quality due to reliance, in some areas, on computer-based training, considered by officers to be far less effective than face-to-face training. This is likely to have led to differing levels of knowledge and confidence among officers and some told us they were reluctant to use stop and search powers as a result.

⁷ *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.

The force published very limited information about the use of the powers on its website. It also published limited data, relating only to gender, ethnicity and age, but these data were not on, or linked to, the stop and search webpage and were extremely difficult to find. More needs to be done to provide comprehensive, meaningful and accessible information and data to the public.

The use of the powers is overseen by local scrutiny groups who meet monthly to monitor the data and review a number of stop and search records.

It was disappointing to find that the force had not developed routes through which people could feed back if they felt dissatisfied about their stop and search encounter so that practice could be improved.

However, it was encouraging that the force is actively exploring the use of technology to assist its officers to use stop and search powers effectively and fairly. The change of recording procedures involving the use of Airwave radio to transfer details and create an immediate electronic record had several benefits.

Part 2 - How effectively and fairly does West Yorkshire 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 place⁸.

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”⁹

Unlike stop and search powers which are subject to the requirements of a statutory Code of Practice¹⁰, 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.

⁸ *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

⁹ *Road Traffic Act 1988* s.163, www.legislation.gov.uk/ukpga/1988/52/section/163

¹⁰ *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 West Yorkshire Police regarding the use of section 163 of the Road Traffic Act 1988

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, West Yorkshire Police had not designated a senior manager to oversee the use of the power.

However, some training on the use of the power is provided to officers on initial recruitment and further training is provided for officers who specialise in policing roads. The training includes reference to the European Convention on Human Rights in relation to fairness of application.

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 access¹¹. 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 place¹².

¹¹ 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

¹² 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 them¹³. Chief constables 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 West Yorkshire Police regarding the use of powers under the Police Reform Act 2002

West Yorkshire Police had a policy for the seizure of alcohol and the seizure of tobacco as part of the overall PCSO policy. PCSOs were provided with some training upon recruitment on the powers and some PCSOs received refresher training in 2014 on their use of powers and also training on unconscious bias and how to treat people fairly and politely.

We were encouraged to find that, unlike most forces, the force required the use of the Police Reform Act powers to be recorded. From 1 November 2013 to 31 October 2014, PCSOs seized alcohol on six occasions and tobacco on ten occasions. We were pleased to find that supervisors are required to review the records.

We were also encouraged to find that the force monitored the use of the powers alongside its monitoring of the use of stop and search powers. However, the numbers are low and the force did not carry out any audits of the use of the powers.

Additionally, many of the PCSOs, officers and supervisors we spoke to had a good knowledge of PCSOs' powers in respect of alcohol and tobacco seizure.

Conclusions for Part 2

In part 2 of this inspection, due to the absence of records, we were unable to assess how effectively and fairly officers in West Yorkshire Police use the Road Traffic Act power to stop vehicles. However, we were pleased to find that the force recorded the use of Police Reform Act powers to search for and seize alcohol and tobacco, although the numbers recorded were very low.

Also, unlike the situation with stop and search, the force did not have policies that guide officers on how to use the Road Traffic Act power. The force showed little commitment to collecting information and using this to oversee the fair and effective use of the power.

¹³ 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 were pleased to find that the force did, however, have a policy on the Police Reform Act powers to help PCSOs to use the powers effectively and fairly.

The absence of reliable data about the use of the Road Traffic Act power means that the force cannot demonstrate 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?*¹⁴, we made recommendations to all forces in respect of the use of these powers.

¹⁴ *Stop and Search Powers 2: Are the police using them effectively and fairly?* HMIC, 2015, London, HMSO. Available from www.justiceinspectorates.gov.uk/hmic

Part 3 - Searches involving the 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 A¹⁵ 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).”¹⁶
- “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.”¹⁷

¹⁵ 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

¹⁶ 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

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, paragraph 3.6, www.gov.uk/government/uploads/system/uploads/attachment_data/file/384122/PaceCodeAWeb.pdf

- “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 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).¹⁸

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.¹⁹ However it does not give any further guidance on how this should be conducted.

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

While, in common with most other forces, West Yorkshire Police has a specific policy or guidance regarding the use of stop and search powers, it did not provide guidance about stop and search encounters in which there is a need to remove more than a person’s outer coat, jacket or gloves (including strip-searches in which intimate body parts are exposed).

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, 3.7, 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, Notes for guidance: Recording www.gov.uk/government/uploads/system/uploads/attachment_data/file/384122/PaceCodeAWeb.pdf

We were disappointed to find that officers do not record whether each stop and search encounter involved the removal of more than outer coat, jacket or gloves. When asked to provide information about such searches, the force was unable to tell us how many had been carried out. The force is unable to report, with any accuracy, how often officers conduct these more intrusive searches on the street and are not able to report how many, where and under what conditions strip searches are conducted.

We found that, consequently, there was a very concerning inconsistency in the approach to the management of stop and search encounters that involve strip searches. Some officers told us that they would not use stop and search powers to strip search someone but would instead arrest them and conduct a strip search in the custody suite at the police station. Others told us that they were aware of the use of stop and search powers to strip search without arrest, with some explaining that the person is taken to the police station and others saying strip searches had been carried out on the street in police vans. When people are taken to the police station we heard of varying procedures; some were strip searched in the custody suite after a custody record is created and some not.

As a result of a lack of guidance on this subject, we found general confusion among officers as to what they are required to do when they conduct a search which requires the removal of more than outer coat jacket or gloves, particularly in respect of such searches that involved the exposure of intimate parts of the body.

Therefore, senior officers had no knowledge or oversight of the searches conducted by their officers involving the removal of more than outer clothing. It is worrying to us that the leaders of officers using stop and search powers do not know, as a matter of course, how frequently their officers are conducting, or have conducted, more intrusive searches, including strip searches.

Conclusion of 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.

We were disappointed that West Yorkshire Police was not able to identify those stop and search encounters that involve the removal of more than outer coat, jacket or gloves.

We 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 is not the case. West Yorkshire Police was carrying out no greater scrutiny of these very intrusive searches than it carried out for searches that did not involve the removal of such clothing.

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

We are concerned that officers had been provided with no guidance on those 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 gloves²⁰.

²⁰ *Stop and Search Powers 2: Are the police using them effectively and fairly?* HMIC, 2015, London, HMSO. Available from www.justiceinspectors.gov.uk/hmic