



HM INSPECTORATE OF CONSTABULARY IN SCOTLAND

Audit and Assurance Review of Stop and Search: Phase 2 – Terms of Reference

November 2016

HM Inspector of Constabulary in Scotland

HM Inspectorate for Constabulary in Scotland (HMICS) is established under the Police and Fire Reform (Scotland) Act 2012¹ and has wide ranging powers to look into the 'state, effectiveness and efficiency' of both the Police Service of Scotland (Police Scotland) and the Scottish Police Authority (SPA).

We have a statutory duty to ensure that the Chief Constable and the SPA meet their obligations in terms of best value and continuous improvement. If necessary, we can be directed by Scottish Ministers to look into anything relating to the SPA or Police Scotland as they consider appropriate. We also have an established role in providing professional advice and guidance on policing in Scotland.

- Our powers allow us to do anything we consider necessary or expedient for the purposes of, or in connection with, the carrying out of our functions.
- The SPA and the Chief Constable must provide us with such assistance and co-operation as we may require to enable us to carry out our functions.
- When we publish a report, the SPA and the Chief Constable must also consider what we have found and take such measures, if any, as they think fit.
- Where our report identifies that the SPA or Police Service is not efficient or effective (or best value not secured), or will, unless remedial measures are taken, cease to be efficient or effective, Scottish Ministers may direct the SPA to take such measures as may be required. The SPA must comply with any direction given.
- Where we make recommendations, we will follow them up and report publicly on progress.
- We will identify good practice that can be applied across Scotland.
- We work with other inspectorates and agencies across the public sector and coordinate our activities to reduce the burden of inspection and avoid unnecessary duplication.
- We aim to add value and strengthen public confidence in Scottish policing and will do this through independent scrutiny and objective, evidence-led reporting about what we find.

Our approach is to support Police Scotland and the SPA to deliver services that are high quality, continually improving, effective and responsive to local needs.²

This audit will be undertaken by HMICS under section 74(2)(a) of the Police and Fire Reform (Scotland) Act 2012 and will be laid before the Scottish Parliament under section 79(3) of the Act.

¹ Chapter 11, Police and Fire Reform (Scotland) Act 2012.

² HMICS, [Corporate Strategy 2014-17](#) (2014).

Our audit

Aim

1. The aim of this audit and assurance review is to **follow-up on recommendations made within our *Audit and Assurance Review of Stop and Search: Phase 1 report*³ and undertake an independent audit of stop and search data.**

Background

2. In early 2015, HMICS undertook an audit and assurance review to assess the state, efficiency and effectiveness of the processes for recording stop and search activity within Police Scotland and the associated procedures for supervision, audit and governance. The impact of the performance framework and targets in relation to stop and search activity was also examined.
3. The inspection was undertaken in numerous stages including:
 - a literature and document review
 - interviews with key stakeholders and observation of meetings
 - fieldwork including visits to seven divisions across Scotland
 - a visit to the Metropolitan Police Service stop and search unit to explore developments in England and Wales and to identify best practice
 - fieldwork with British Transport Police to compare and contrast our findings in Police Scotland with that of another service
 - fieldwork in the National Stop and Search Unit to undertake the validation of the Police Scotland audit of stop and search records
 - an audit of the records relating to the searching of children aged 11 or under between 23 June and 31 December 2014, and
 - report preparation and publication
4. Our Phase 1 inspection report was published on 31 March 2015 and contained 23 recommendations. The aim of our review was to provide the public and key stakeholders with an evidence base upon which to make an assessment of the accuracy of stop and search data. It also sought to provide a strategic overview of stop and search in Scotland and to inform debate on the future direction of the tactic.
5. While our intention in Phase 1 was to undertake an extensive audit of stop and search records, this was not possible due to an absence of definitive Police Scotland guidance and counting rules against which to audit. However, we took an opportunity to review the results of a data retrieval exercise by Police Scotland that had been required due to an ICT programming error.⁴ This allowed us to comment on the validity of the Police Scotland internal audit and provide an initial assessment of the reliability of the stop and search data.
6. At the time of publication of our report Police Scotland was reviewing its stop and search practices and the ongoing requirement for 'consensual' or non-statutory stop search. A Short Life Working Group and a Tactical Delivery Group with representation from a wide range of interests had been formed by Police Scotland to provide an update on the future of stop and search to the Cabinet Secretary for Justice and it was our intention that our Phase 1 report should inform this work. The

³ HMICS, [Audit and Assurance Review of Stop and Search: Phase 1](#), March 2015.

⁴ Pages 58-63, HMICS Audit and Assurance Review of Stop and Search: Phase 1, March 2015.



Police Scotland update report was also published on 31 March 2015.⁵

7. In our report we recommended that there should be a general presumption amongst officers that stop and search encounters should be legislative which, combined with improvements in recording practices, training, audit and supervision, should give communities across Scotland more confidence in the use of stop and search and allow a more informed view on the future need for consensual stop and search.
8. Our report also recommended that Police Scotland and the SPA consult with the Scottish Government on the potential development of a statutory Code of Practice for stop and search in Scotland in order to establish clearly understood principles and safeguards for the public and to provide clear and transparent guidance to officers.
9. On 31 March 2015, Scottish Ministers announced that an independent advisory group on stop and search policy in Scotland, chaired by John Scott QC, would be established with a remit to advise Ministers on the long term policy which should be in place for stop and search, in particular to:
 - consider and report to Scottish Ministers on whether a presumption against consensual stop and search goes far enough or, alternatively, if there should be an absolute cessation of the practice. The group was to advise on the steps to be taken in the light of the conclusion it reached, including any consequent legislation or change in practice that might be necessary
 - develop a draft Code of Practice that would underpin the use of stop and search in Scotland.
10. The Independent Advisory Group on Stop and Search (IAGSS) report⁶ was published on 3 September 2015 and contained 10 recommendations. These included a recommendation that there should be a Code of Practice covering stop and search of the person in Scotland which should be given effect by statute, and another that 'consensual' or non-statutory stop and search should end when the Code of Practice comes into effect. A draft Code of Practice was circulated with the report.
11. A public consultation on the draft Code closed in July 2016 with responses now being considered by the Scottish Government and the IAGSS.
12. Since our report, Police Scotland and the SPA have been progressing all of the HMICS recommendations and extensive evidence has already been provided to allow 21 of these to be discharged.
13. On 1 June 2015, Police Scotland rolled out an enhanced National Stop and Search Database across Scotland and introduced improved processes to validate and improve the quality of stop and search data. Police Scotland publicly reported⁷ that the introduction of these checks has had a significant impact on the level of data input errors including a significant reduction in age input errors.
14. Since the implementation of the enhanced database, the Police Scotland National Stop and Search Unit (NSSU) has been carrying out a 100% review of all stop and search, seizure and refusal records submitted by police officers across Scotland using a set of defined business rules. This review is supplemented by a NSSU group

⁵ Police Scotland, [Stop and Search Update Report for the Cabinet Secretary](#), March 2015.

⁶ [The Report of the Advisory Group on Stop and Search](#), August 2015.

⁷ Police Scotland, [Management Information, National Stop and Search Database: Quarterly Report](#), April-June 2016/17.



review of any records identified during the initial review which appear incorrect or lacking in information, and appropriate action is taken. Supplementary activity includes processes to address duplicate records, police notebook/personal digital assistant (PDA) checks to assess the quality of stop and search data recorded, and a daily audit of any searches of children aged 11 years or under to ensure compliance with force policy and procedures. Each month a further review is conducted of 100 randomly selected records from the 100% review and results are compared with the original assessment made by the NSSU. After six months, all 600 are passed to the Force statistician who provides the Police Scotland National Systems Support and SPA each with a list of 100 randomly selected records from those 600 for review. This provides for a further 200 records to be separately audited by the NSS and SPA using the same methodology applied by the NSSU. Any feedback from these external audits is provided to the NSSU who will take any necessary action to amend records and ensure accurate information has been recorded.

15. HMICS will examine these scrutiny and audit processes in detail during Phase 2.

Audit and Assurance Review of Stop and Search Phase 2 – Terms of reference

16. Our intended outcomes from this Audit and Assurance Review are to:

- provide the public and key stakeholders with an update on progress made by Police Scotland and the SPA on recommendations contained in our Phase 1 report
- provide independent assurance to Police Scotland, the SPA and the public to inform their assessment of the accuracy of stop and search data.

17. Our Audit and Assurance Review of Stop and Search: Phase 2 will involve:

- a review of the progress against all 23 recommendations contained in the Phase 1 report
- mapping and assessment of the scrutiny and audit processes used by Police Scotland and the SPA, and
- an independent audit of stop and search records in order to test the accuracy of the Police Scotland stop and search data.

18. In 2015, in our Phase 1 report, we stated that we would undertake a statistically significant audit of both positive and negative searches once Police Scotland and the SPA had had sufficient opportunity to consider our recommendations and implement improvements to stop and search across Scotland.⁸ Whilst we intend to audit stop and search records to test accuracy, the extent of our audit will depend on what we find once we have mapped and assessed the Police Scotland and the SPA scrutiny and audit processes, including notebook and PDA checks, which have been developed and embedded since our Phase 1 report. Our intention is that our audit will be proportionate based on the actions taken by both Police Scotland and the SPA and our assessment of their effectiveness. This could potentially involve us validating a number of records that have already been audited at all levels in the process by both Police Scotland and the SPA. Should a more proportionate approach by HMICS not be possible, we will revert to our original intention to audit the end to end processes for a random selection of stop and search records across Scotland.

⁸ Page 4, HMICS, [Audit and Assurance Review of Stop and Search: Phase 1](#), March 2015.



Methodology

19. The Phase 2 review by HMICS will be undertaken through the activities outlined below:

Stage 1

- Review of key documents including the policy, procedures and guidance issued by Police Scotland referring to the recording and counting of stop and search activity.
- Mapping of the scrutiny and audit processes of Police Scotland and the SPA which will include a document review, observation of scrutiny activity by the NSSU and an assessment of the internal and external reporting and governance of audit results.

Stage 2

- Independent audit of stop and search records to test the accuracy of stop and search data. The records will be examined in terms of quality and fullness of information. As highlighted above, the size of the sample of search records and our final methodology will be dependent on our findings from Stage 1.
- Review the progress on all recommendations contained in the Phase 1 report and report our findings.

Phase 2 – Reporting timescales

20. We will produce a report at the conclusion of our Phase 2 review. This will include any relevant findings and provide our independent assessment of the validity or otherwise of stop and search data. We will formally discharge any recommendations from our Phase 1 report and summarise our evidence for doing so. Where there are any recommendations that cannot yet be discharged, we will provide an assessment of the progress to date and identify what further action we believe is needed. If we identify any new areas for improvement as part of our Phase 2 review, we will make such recommendations as we consider necessary.

21. HMICS will undertake this phase between October and December 2016 and it is anticipated that the report of our findings will be published in early 2017. The report will be laid before the Scottish Parliament under section 79(3) of the Police and Fire Reform (Scotland) Act 2012. A copy of our report will be provided to the Scottish Police Authority, the Chief Constable and the Cabinet Secretary for Justice. Our report will also be made publicly available on the HMICS website.

22. For further information about the stop and search audit, please contact Katie Chisholm, Support Inspector (katie.chisholm@gov.scot).

Derek Penman QPM

HM Chief Inspector of Constabulary in Scotland

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