

Stop and Search

What are lawful grounds?



This guide aims to help all officers who use stop and search powers to complete the 'reasonable grounds' field in the records made, to ensure these powers are used and recorded lawfully.

This advice is based upon national best practice and learning from an audit into the grounds actually recorded on our force stop and search records – the recommendations are based upon consistent themes, not one off errors.

It should give you the confidence to use stop and search powers and be able to record the grounds you will have formulated in a manner that complies with the legislation and best practice.

What is suspicious?

People are not suspicious – their behaviour is

Suspicion is saying something is wrong, is different to the norm – therefore questionable. When exercising your search powers, it is the person's behaviour that matters and it is essential to record this in writing when stating the grounds for your search. If you are not able to do this, then you do not have the authority to search the individual.

Remember that what is not normal to you, may be normal to others so take a balanced view, otherwise it may be perceived that you are abusing search powers to control individuals.

Even though you may not have the required authority to search, you are still able to challenge the individual and re-assess your suspicion that something is wrong. Their behaviour or verbal responses may lead to giving you grounds to search.

The behaviour that seems wrong must give rise to suspecting a specific offence. Someone who avoids / evades you is presenting suspicious behaviour but is there any connection to drugs or stealing? If you can't identify an answer to this question then initially only question them to establish your suspicion or satisfaction with what they are doing. **Never feel obligated to search without knowing exactly what you suspect to find and why you have grounds.**

For example: A call is received from a member of the public about a youth sitting on a pushbike at the end of the street, at 11pm. The caller says there is someone acting suspiciously and gives a good description.

- You attend – would you search the youth? If so, what for? Maybe drugs or going equipped, maybe you would speak with him only at this point?
- What if the call taker asks 'what is the youth doing that is suspicious [behaviour]?' The caller's response is 'well, no one usually hangs around here at this time of the night'. You are not aware of any unlawful activity, just that hanging around is questionable – and that is how you should initially approach this individual.

If you observed the youth looking into car windows, or are told other people keep coming up to him and he's on his phone often, now you have suspicious behaviour which gives rise to suspecting a specific offence. If in doubt only question initially.

Use your questioning skills and be prepared to accept you do not have sufficient grounds at this time. Searching a person must never be used as a control measure. You must have an honestly-held belief that you WILL find evidence of a specific offence.

What NOT to write, and how to improve 'the grounds' detail

Known criminal – this must not be used as a ground for search. PACE Code A does not allow the fact that someone has previous criminal convictions as a reason to search them.

Known drug user – this must not to be used as ground for search as it is non-specific and if correct, could relate to a criminal conviction and therefore falls under 'Known criminal'.

Smell of drugs – alone this is insufficient – expand to include the circumstances, conversation with the individual, their appearance, actions / behaviour etc.

High crime area – alone this is insufficient - there should be reference to a specific briefing or tasking location.

Crime or drugs hotspot – alone this is insufficient - there should be reference to a specific briefing or tasking location.

When more information is required:

Evasive to questions – explain the questions you asked, e.g. evasive to questioning about where they had just come from.

Appeared nervous – needs to be expanded to include specific actions or behaviour e.g. avoids police, sweating, muscles tensed, pacing, refuses to co-operate, repeats question before answering etc.

Fitted description of a suspect for a recent crime – you must include a summary of the description and where the description has come from e.g. white man, 18 years, blue hoody; and what crime had been committed in the area at the time.

When will my grounds to search be reasonable?

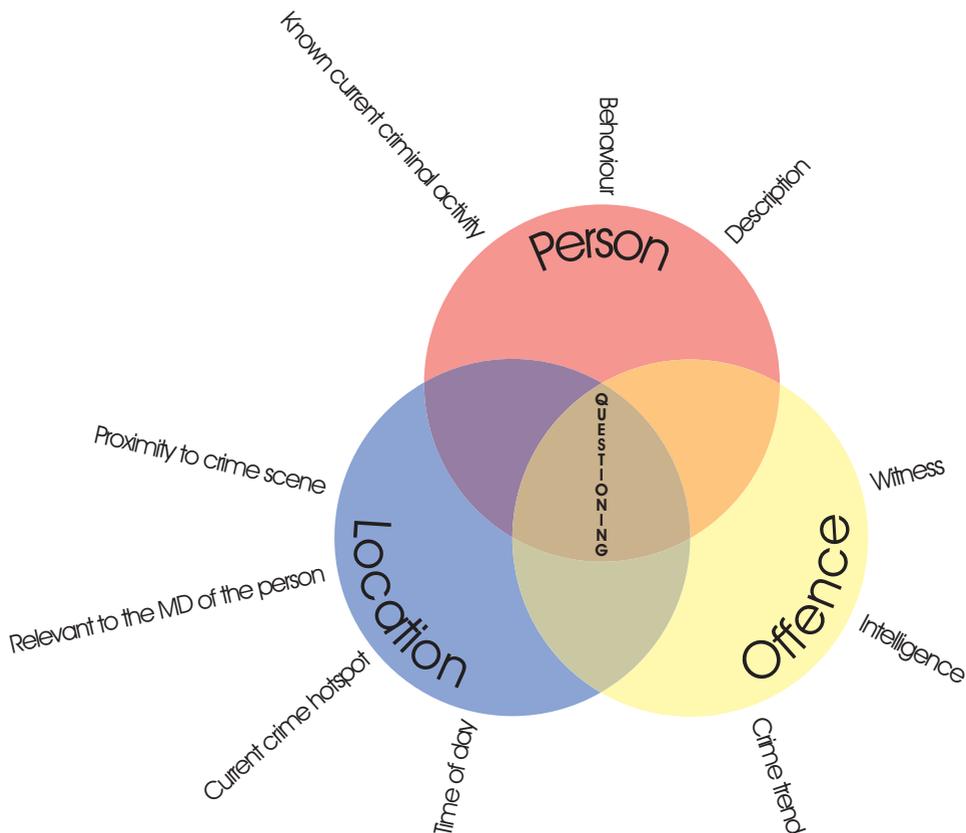
Any use of the stop and search powers requires a person to be searched. However it is not the person who is suspicious, but their behaviour, the location and an offence suspected that collectively gives you grounds to conduct a search.

When deciding if you have the authority to search someone, think person, location and offence.

If you are on a dedicated operation at a specific time, to combat a specific offence then the presence of someone about whom there is recent intelligence indicating they commit this type of offence will make out the grounds for a stop and search.

Record these elements and you will be able to demonstrate that your grounds for searching were reasonable.

If you aren't certain, then use 'stop and account' to ensure it is the person's behaviour rather than the person themselves causing your suspicion and belief.



For example: a known shop thief with previous convictions, in a busy shopping area, with a bulging shopping bag. As PACE does not allow there to be any inference purely because of an individual's previous convictions, it would be wrong to write 'known offender in busy town centre with bag'.

Instead, write 'nominal known to steal from shops when busy to feed drug habit, carrying full bag with no means to purchase and when **questioned** was evasive'.

The key is this person was questioned before being searched.