Introduction

I welcome the opportunity to talk to the Justice Sub-Committee on Policing about the new Stop and Search Code of Practice, and specifically the provisions relating to children and young people.

I am a member of the Stop and Search Independent Advisory Group (IAG) and assisted in the creation of Chapter 7 of the Code, which sets out additional considerations Police Officers should make when stopping and searching children and young people.

Consultation

The content of a new Chapter came about as a direct result of consultation with children and young people. This consultation was commissioned by the Scottish Government and facilitated by the Children’s Parliament and the Scottish Youth Parliament. It involved a range of children and young people, from different age groups and with different life experiences.

The consultation was primarily to establish whether children and young people felt a new statutory power to stop and search young people for alcohol should be created. However, the Children’s Parliament and the Scottish Youth Parliament also looked more broadly at children and young people’s experiences of stop and search. As such, they provided a clear picture of children and young people’s current concerns, as well as providing suggestions for how practice could be improved.

In drafting the new chapter, the IAG also took account of points raised by those working with particular groups of children and young people, for example, those with hidden disabilities, such as autism.

Children and Young People’s Input

In recent years there has been a welcome increase in children and young people’s views being sought when a new policy is being created or legislative change is being considered. This is in line with Article 12 of the UN Convention on the Rights of the Child.

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Child, which states that a child or a young person should have a say in decisions affecting them.

When consultation has taken place in the past, however, it has often been when a policy or piece of draft legislation has already been created. Children and young people have been asked to comment, and some of their comments may have been incorporated into the final draft. However, what's missing from this approach is the chance for children and young people to meaningfully shape policy from the outset. This approach can lead to a dissatisfying experience for children and young people, and to policy/law which does not adequately reflect their views and needs.

In contrast, the Scottish Government should be commended for ensuring consultation with children and young people on Stop and Search took place at an early stage in proceedings. They worked with the Children and Young People's Commissioner's office to establish how best to make this happen. The Scottish Government then approached organisations who had existing links with children and young people to carry out the consultation and report back their findings.

I cannot emphasise enough the difference that this approach has made. Children and young people were able to talk freely about their own perceptions of Stop and Search, and suggest what Police Officers could do to make the process work better for them.

The IAG wanted to ensure the Chapter 7 was grounded in the views of children and young people, and because of the approach that has been taken, I am confident that it is.

Chapter 7

The opening paragraph of Chapter 7 of the Code of Practice states that ‘this section of the Code is designed to offer constables assistance in recognising and understanding the needs of children and young people in relation to stop and search. It acknowledges that children and young people have different requirements to adults and that they may require additional support to help them comprehend and participate in the search process.’

In summary, the new chapter aims to provide:

Recognition

- Helping Police Officers recognise the power imbalance that exists between a Police Officer and a child or young person.
- Acknowledging the impact that this may have on the way a child or young person interacts with a Police Officer.

Perspective

- Allowing Police Officers to understand what it might feel like to be a child or a young person in a stop and search situation.

Guidance

- Helping Police Officers understand how best to seek, and take into account, a child or young person’s views.
- Offering suggestions as to when Police Officers can meaningfully involve children and young people in decision-making processes.

Clarity

- Ensuring Police Officers have a good understanding of the important of using age appropriate language, and of clearly explaining their actions at every stage of a search.

Understanding

- Helping Police Officers be aware of how past trauma can influence the way in which a child or young person engages with a person in authority.

‘Where Practicable’

Committee members will note that some of the statements made in Chapter 7 are followed by the phrase ‘where practicable’.

In creating Chapter 7, the IAG was careful to build in some operational flexibility. So, for example, in an ideal situation a Police Officer would carry out a search away from a child or young person’s peers, and would offer them some choice in where this should happen. However, there may be some situations where offering a choice was impossible, and the Code was written in such a way as to reflect that.

Accessibility

It is acknowledged that Chapter 7 and the rest of the Code is written primarily with an audience of Police Officers in mind.

However, the IAG is aware that the Code needs to be understood by everyone, and work is currently underway in producing clear and accessible summary versions.

Children and young people, in particular, will require a version of the Code which clearly sets their rights out in language they can understand. This is important, not just to help them navigate the Code, but also if they feel they have been treated unfairly, as they will need to use the Code as the basis of their complaint.

The IAG also felt it was vital that children and young people who participated in the consultation events know how their views have contributed to the final Code of
Practice. As such, work is underway to produce specific feedback information for them, which will sit alongside the children and young people’s version of the Code.

Pauline McIntyre
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