

# **A Guide to Stop and Search In Scotland**

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# A guide to Stop and Search in Scotland

A police officer has powers to stop and search you if they have **reasonable grounds** to suspect that you are carrying something that you should not have, such as:

- illegal drugs
- a weapon
- stolen property

This is to keep the public safe and to help prevent and detect crime.

Being searched does not mean that you are being arrested and does not mean that you will have a criminal record.

From 11 May 2017, police in Scotland must follow a new Stop and Search Code of Practice. This Code sets out rules for when the police can use stop and search, how the search should be carried out and what information about the search should be recorded. It also covers the information the officer should give you so that you understand what will happen and why.

Some of the main things included in the Stop and Search Code of Practice are set out below:

## 1. When can a police officer search you?

- The general rule is that an officer can only stop and search you if they have **reasonable grounds** to suspect that you have committed a crime, you're committing a crime, you're about to commit a crime, or that you have an item that you should not have (such as illegal drugs, a weapon or stolen property).
- For there to be reasonable grounds, the officer needs to have a genuine suspicion that they are likely to find the object they are searching for. Their suspicion must be reasonable and based on facts, information or intelligence.
- The officer must be able to tell you, by referring to facts, intelligence or information, why they believe that you have the item they are looking for (this might include a description of a suspect or other information that has been given to the officer, or something that the officer has seen, heard or smelled).
- You could be stopped and searched by an officer without reasonable grounds to suspect that you have committed a crime, if it was suspected that serious violence involving weapons was likely to take place in the area that you are in. This could only happen if the search had first been approved by a senior police officer.

- A police officer can search you before you enter an event such as a football match or a concert, if the event organiser has made it a condition of entry that you agree to being searched. This is to make sure that you don't have anything on you that could cause harm to other people at the event.
- A police officer can search you if they are about to take you somewhere for your own safety, such as to your home or to hospital. This is to make sure that you don't have anything that could cause harm to you or anyone else.

### **An officer cannot stop and search you just because of how you look or other personal factors**

- An officer cannot stop and search you just because of how you look based on your age, disability, sex, sexual orientation, gender re-assignment, pregnancy, race, religion or beliefs, or your general appearance or how you are dressed.
- An officer cannot stop and search you just because you have a previous conviction.
- However, the officer may be able to stop and search you if they have other information which, when taken along with personal factors, gives them reasonable grounds for suspicion. For example, other information could include a description of a suspect seen carrying a prohibited article.

## **2. What should happen before you are searched**

A police officer doesn't always have to be in uniform but if they're not wearing uniform they should show you their warrant card (the warrant card has the officer's photograph, name and rank on it).

The officer should do everything they reasonably can to make sure that you understand why you are being searched and what the search will involve, including taking steps to help you if you have any difficulty understanding what you are being told.

Before you are searched the police officer should tell you:

- their name and police number
- that you are being detained for the purposes of a search
- that you do not have to say anything or give the police any information about yourself if you don't want to
- the specific law which gives them the power to search you
- what they expect to find (such as illegal drugs, a weapon or stolen property)
- that they will record information about the search and that you can have a copy of the record of the search if you want one (but if you haven't provided your name you won't be able to get a copy of the search record)

### **3. How the search should be carried out**

- The officer should do everything that they reasonably can to minimise any embarrassment and inconvenience to you.
- The officer should respect your beliefs, religious needs and cultural values
- If you are under 18, you should be searched by an officer who is the same sex as you and they should use language you understand.
- If you are transgender, you can tell the officer what gender you want them to treat you as. You can choose whether you would rather be searched by a male or female officer.
- The officer should detain you for as short a time as possible.
- The search should be carried out at the place you were stopped or as close as possible within a reasonable travelling distance.
- The officer should try to get you to co-operate with the search. However, if you do not co-operate, the law allows the officer to use reasonable force (this means the minimum amount of force necessary).
- How detailed the search is should depend on the circumstances, and on what the officer is searching for. For example, if the officer believes that you have the item that they are looking for in a particular pocket or in a bag, the officer should search only that pocket or bag for that item. If an officer is looking for a small item that could be hidden anywhere, a more detailed search might be needed.
- If, during the search, an officer finds something that you should not have, this may provide reasonable grounds to carry out a more detailed search.

### **4. Rules about removing clothing**

- If you are in a public place, an officer cannot require you to take off more than your outer coat, jacket, gloves, head-gear (such as a hat) or footwear (such as shoes).
- The officer can do a light search of the outside of the clothes that you are still wearing. This can include the officer putting his hands inside pockets of outer clothes or feeling round the inside of a collar, socks and shoes if this is reasonable to find the item that the officer is looking for. It can also include the officer searching your hair (unless this would be sensitive for you for cultural or religious reasons, in which case the search should be done out of public view).

- There may be circumstances where an officer requires you to remove more than an outer coat, jacket, gloves, headgear or footwear. If so, this must be authorised by a senior officer of at least Inspector rank, and the search should only go ahead if the officer reasonably believes that you have hidden something. In addition:
  - The search must be carried out by an officer of the same sex as you.
  - You can have a responsible adult with you if you want (if the responsible adult agrees to be there).
  - The search must be carried out somewhere where no-one else can see you who does not need to be there, and no-one of the opposite sex to you should be able to see you (unless you have asked a responsible adult of the opposite sex to be there).
  - The reason for the search must be fully explained to you.
  - The search should be carried out as quickly as possible and you should be allowed to dress as soon as the search is finished.
  - You should not be asked to remove all of your clothing at the same time (for example, you should be allowed to remove clothing above the waist and put these clothes back on before removing further clothing).

## **5. What should happen after a search**

- The officer should tell you that you can get a copy of the record of the search, if you ask for it within 6 months of the date you were searched. (But if you haven't given the police your name you won't be able to get a copy of the search record)
- The officer should give you a written receipt that includes information about police powers to stop and search, your right to get a copy of the record of the search, your right to complain about the search and how to make a complaint.
- If the officer does not find anything during the search, and they have no other reason to detain you, you are free to go.

## **5. How to get more information and advice**

You can [read the full Stop and Search Code of Practice](#)

For free, confidential and independent advice you can [contact Citizens Advice](#)

You can also find more information on [Police Scotland's stop and search website](#)

## **6. How to complain**

To complain about how the police have searched you, or about how the police have treated you, you can [complain to Police Scotland](#)



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