



Police Powers to Search Children and Young People for Alcohol

Deadline: Friday 15th July 2016

1. Do you think that a new power for the police to search a child or a young person for alcohol as outlined in Part 1 of this consultation paper is an appropriate way to reduce risks to safety and wellbeing caused by possessing and consuming alcohol in public.

Together does not see sufficiently strong evidence to suggest a necessary addition to Section 61 of the Crime and Punishment (Scotland) Act 1997¹, in which police have the power to require persons under the age of 18 to surrender alcohol if having reasonable grounds known as 'seizures'. The proposed power is not held by other police forces in the UK² and there is no evidence to suggest that Scotland in particular requires the additional power.

As the 2015 report from HMICS³ found, most underage alcohol detections result from seizures rather than stop and search, suggesting that sufficient police powers are already in place under Section 61. Since June 2015, the recording of such incidents has been disaggregated. According to the figures set out in the consultation document, in the vast majority of cases, it is clear that seizure powers are what allow the police to remove and dispose of alcohol in the possession of children and young people, and to keep them safe.

Although Together recognises the concern that police officers do not wish to be pushed towards a new practice of arresting children suspected of possessing alcohol and criminalising them unnecessarily, there is no evidence to suggest that this will be necessary whilst Section 61 seizures powers are in place. As the consultation document clearly sets out, there is no evidence any child or young person refusing to surrender alcohol to an officer under Section 61 seizures, or of an officer needing to consider the arrest of a child or young person for refusing to surrender alcohol. Therefore it is questionable if it is necessary to retain such a power of arrest in these circumstances.

As the consultation paper sets out, where consensual stop and search has been employed as a means of attempting to recover alcohol from children and young people, it has been unsuccessful in 94% of cases⁴. This 94% failure rate suggests that this initiative, when weighed with both the evidence and a cost-benefit analysis, is not a tactic that should be pursued.

As recently as June 2016, the UN Committee on the Rights of the Child raised concerns about the use of Stop and Search on children and young people:

¹ <http://www.legislation.gov.uk/ukpga/1997/48/section/61>

² <http://www.gov.scot/Resource/0048/00484527.pdf>

³ http://www.hmics.org/sites/default/files/publications/HMICS%20-%20Audit%20and%20Assurance%20Review%20of%20Stop%20and%20Search%20-%20Phase%201_0.pdf

⁴ https://consult.scotland.gov.uk/organised-crime-and-police-powers-unit/under18search/user_uploads/421031_p1--2-.pdf

1. The Committee recommends that the State party:
 - (a) Prohibit the use of non-statutory stop-and-search checks against children;
 - (b) Ensure that the statutory use of the stop-and-search checks is proportionate, taking into consideration the age and maturity of the child, and non-discriminatory;
 - (c) Regularly collect, analyse and publish data relating to the use of stop and search on children, disaggregated by age, sex, disability, geographic location, ethnic origin and socioeconomic background.⁵

As such, there is the potential for the creation of a statutory stop and search power for use on children and young people alone to be regarded as discriminatory.

2. Do you think that any negative effects could result from a new power to search a child or a young person for alcohol as outlined in Part 1 of this consultation paper?

A new power is also likely to engage a range of children's UNCRC rights, including article 3 (best interests) and articles 13 (freedom of expression), 15 (freedom of association) and 16 (right to privacy).⁶ Together recommends that a full Child Rights and Wellbeing Impact Assessment⁷ should be undertaken to assess the positive and negative impact a new power would have on children's rights.

More specifically, Together is concerned about the potential impact a new power may have on firstly an increase in searches on children and young people, and secondly on the relationship between children and the police.

Considering a) the significant progress made by Police Scotland on stop and search practices over the previous year, including reduction in overall numbers, reduction in the proportion of non-statutory searches, and the reduced targeting of young people⁸, and b) the UN Committee's recent recommendations above that non-statutory stop-and-search checks against children be prohibited and that use of statutory stop-and-search checks be proportionate and non-discriminatory, the creation of a new power would be a retrograde step. A new power may also deliver a pretext to disproportionately target children and young people in stop and search practices.

An end to high-volume and disproportionate stop and search practices on children and young people has been welcomed by Together. Adversarial contact with the police can stigmatise young people, and draw them further into the criminal justice system. As stop-and-search is an invasive tactic and 9 out of 10 searches of children for alcohol found no alcohol in the period of June-December 2015⁹,

⁵http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fGBR%2fCO%2f5&Lang=en

⁶<http://www.ohchr.org/Documents/ProfessionalInterest/crc.pdf>

⁷<http://www.gov.scot/Topics/People/Young-People/families/rights/child-rights-wellbeing-impact-assessment>

⁸<http://www.scottishlegal.com/2016/05/23/stop-and-search-figures-plummet-after-police-cut-consensual-searches/>

⁹https://consult.scotland.gov.uk/organised-crime-and-police-powers-unit/under18search/user_uploads/421031_p1--2-.pdf

there would clearly be unintended and unnecessary consequences for children and young people, and their relationship with the police. This point is strengthened by the deliberate absence of a search power for alcohol in the Crime and Punishment (Scotland) Act 1997 which intended to diminish police-community tensions.

Together acknowledges that the presence of alcohol can often put children and young people at increased risk. However, this risk has been shown to be successfully managed via the use of existing seizure powers. A seizure, by its very nature, has a much higher success rate and is therefore a more effective tool in safeguarding children and young people.

Any measures put in place to prevent harm need to be balanced carefully against the rights of children and young people to go about their lives without undue interference.

3. Do you think that a new power for the police to search a person suspected of supplying a child with alcohol as outlined in Part 1 of this consultation paper is an appropriate method to reduce risk to safety and wellbeing caused by possessing and consuming alcohol in public?

No. Together does not believe the creation of a new power is necessary, and considers that existing powers of seizure under Section 61 are sufficient. The creation of a new statutory power appears to be a disproportionate and ineffective way of dealing with what are essentially safeguarding concerns, and are in direct contrast to the Advisory Group's stated desire of avoiding the disproportionate targeting of children and young people.

Liz Millership

Policy and Communications Officer

7th July 2016