

MEETING	Decision Making Meeting
DATE	2 September 2021
TITLE OF REPORT	Introduction of an Independent Use of Police Powers Scrutiny Panel in line with the Commissioner’s manifesto commitment to widen the range of scrutiny roles across the county.
SUBMITTED BY	Sara Miles, Criminal Justice Policy & Research Manager
PURPOSE OF REPORT	To update DMM regarding plans to establish an independent Use of Police Powers Scrutiny Panel in Hertfordshire
DECISION(S) REQUIRED	To approve the proposed recommendation for a new Use of Police Powers Scrutiny Panel.
FINANCIAL IMPLICATIONS	There are no immediate financial implications. The scrutiny panel may reveal that a deeper understanding of use of police powers through the lens of BWV, if so and training is required this may incur some costs.
LEGAL IMPLICATIONS	There are no legal implications arising from the proposed decision or requirement to take action.
EQUALITIES IMPACTS	There is no impact of the decision proposed on equalities. Although as outlined in the proposal one of the aims and objectives is to ensure that Hertfordshire Constabulary’s use of all police powers is proportionate, fair, effective, in line with Approved Professional Practice and is operating without bias or discrimination
FREEDOM OF INFORMATION EXEMPTION SECTION IF APPLICABLE	N/A

1 INTRODUCTION

In the Commissioner’s [Criminal Justice & Community Safety Plan \(2019-2024\)](#) the importance of body worn video (BWV) was made clear, noting how BWV has the potential to:

- Reduce complaints against the police
- Reduce police use of force
- Provide significant evidential gains in areas such as domestic abuse

In order to achieve these benefits, the Commissioner suggested that all frontline officers should ensure that their BWV’s are switched on in all encounters and at the earliest opportunity to support achieving best evidence. The Chief Constable was asked to carry out an audit of BWV to ensure an improvement in levels of compliance and increased efforts to overcome issues relating to battery life and digital storage.

The Plan also recognised that the independent Stop and Search Scrutiny panel now have sight of any complaints made by the public relating to stop and search with a formal process in place for the panel to feedback to supervisors and to Professional Standards when a case of misconduct has occurred. There was also a recognition that the panel had been able to review BWV of the stop and search encounters. In doing so they had found that cameras were not being switched on at all encounters or at the earliest opportunity.

In Hertfordshire the Constabulary current BWV policy is for cameras to be turned on for all domestic abuse incidents, all Stop & Searches and any incident where there is evidence gathering potential. The challenge remains around ensuring compliance particularly as the current policy is quite a culture shift compared to the position a few years ago. Compliance is being monitored and BWV is a thematic at the Strategic Performance Board. Recently a new paper has been prepared that will recommend to Chief Officers that the current non-evidential retention period be extended from 31 days to 90 days. This would be contrary to National guidance which a number of forces have already stepped away from. The primary reasons are the timeliness of public complaints being made and the increased emphasis being placed on unused material by the new Attorney General's disclosure guidelines. ICT have confirmed that this, along with additional anticipated usage following distribution of new cameras, will not cause significant storage issues.

In the recent PCC [manifesto](#), Stop and Search and BWV was again highlighted. The PCC noted that BWV is 'one of the most powerful tools in our armoury and used properly has the power to transform how we police.' As part of the complaints process BWV can frequently provide a speedy resolution and reviewing BWV has an important role in learning and development. Commitments were made in the manifesto to:

- Ensure officers are supplied with all of the equipment required to deliver this expansion of BWV and fund any additional investment needed.
- Make more examples of BWV made public so that citizens can see the excellent job their officers do and the challenges they face.
- Set up an independent panel to scrutinise samples of BWV

It is understood that that HMICFRS are likely to do a detailed inspection of BWV in 2022.

2 BACKGROUND

The Independent Stop and Search Scrutiny Panel

The power to search is coercive however, and must always be used fairly, ethically and with just cause. It is the role of the Hertfordshire's Stop and Search Scrutiny panel to provide independent scrutiny of police performance. This independent scrutiny should give the public greater confidence that the police are discharging their powers proportionately, legitimately and ethically. That fairness and integrity sits at the heart of modern policing and this panel helps to provide that useful challenge and temperature check.

In 2019/20 the panel dip sampled and reviewed 432 Officer records out of a possible 9486 Stop & Searches. They were unable to review any BWV over the year due to the meetings taking place virtually as a result of the coronavirus pandemic.

BWV was introduced to the panel in 2018 and included as part of their review and scrutiny process. In 2018/19, 15 pieces of BWV was reviewed by the panel and in 2019/20, 8 pieces were reviewed. Although the panel did make some recommendations based on the footage

they viewed, there was not a large enough sample size reviewed in either year to identify any trends or make any robust recommendations.

At present the panel could dip sample more BWV than they have previously by splitting in to small groups to review; as they already do for reviewing officer records. This could see the panel reviewing approximately 50 pieces of BWV a year. This is still not a large enough sample size to make robust recommendations and identify themes. There is also a risk that the panel would not manage 50 records if there were to be Section 60 authorisations to discuss and increasing the amount of BWV reviewed could have a negative impact on the amount of records the panel manage to review. In order to increase the amount of BWV reviewed there is a need for an additional group.

Use of Force Panel

The inaugural meeting of the Use of Force Panel (UoF) panel took place in June 2018 and meetings have taken place quarterly since then. The panel select incidents across the following categories:

- Handcuffs
- Pava
- Taser
- Escalated force
- Spit Guard
- Unarmed Defensive Tactics

The last meeting of the panel took place in July 2020 due to the fact that it was not possible to show BWV online during the pandemic.

The Terms of Reference for the panel notes that there will be six meetings per year. Three of these meetings will be where all Use of Force is analysed and three meetings will look more deeply into each area of the Use of Force most commonly used. The panel review BWV along with accompanying statements.

The Constabulary have identified that the Use of Force (UoF) panel should be chaired and managed independently and have asked the OPCC to take over this role.

What happens in other force areas?

Desktop research has been conducted to understand what independent scrutiny arrangements operate in other force areas. This has mainly consisted of searching for information that has been made available on the internet. In depth conversations have been had with Bedfordshire and West Midlands with regards to their scrutiny of Stop & Search and BWV.

The desktop research shows that many areas have independent advisory groups or wide-ranging scrutiny panels (in particular covering both use of force and stop and search). Some areas do not have any type of independent scrutiny for Stop & Search and others are just in the process of setting up independent scrutiny panels. For example, Greater Manchester Police announced in April this that they would be creating an independent community scrutiny panels for S&S in each of their policing districts.

Those areas who do have a panel have on average 10 members and the majority meet quarterly. Many do now review BWV however there are still a number of only review data

and officer records. It is common for a maximum of 5-10 records to be reviewed. Cumbria reviewed by far the most with 20 records reviewed in one meeting.

Many of the scrutiny panels that do exist meet on bi-monthly or quarterly basis. Some areas such as Cumbria have more than one panel that operate across the area with Cumbria having three panels. However, each panel only meet three times a year, totalling nine scrutiny sessions per annum. West Midlands also have multiple panels with the force are having 10 panels that meet monthly. These panels review records and BWV. The minutes shared on the OPCC website are not kept up to date for all areas but on average 10 records are reviewed at each meeting. Compared to other areas West Midlands has more panels and they meet more regularly than most.

Kent Police and OPCC have recently introduced a BWV panel which sits quarterly prior to the Stop Search Scrutiny panel and provides independent police observers with an opportunity to review the use of Stop Search powers. Bedfordshire also have a BWV subgroup which meet quarterly and feedback in to the main panel.

How is BWV already scrutinised in Hertfordshire?

BWV is currently reviewed with regards to scrutiny in the following ways:

- At the bi-monthly UoF panel meeting
- By CRT with any complaints they look to resolve where BWV is available
- At the S&S panel who will review 8-15 pieces of BWV a year
- By PSD who will review BWV where available for complaints that come to them
- Public engagement activity through the stop & search panel (note: this doesn't currently happen but plans to introduce during 2021/22)

What engagement has there been with the Constabulary?

- The Constabulary have recently asked the OPCC to take over the secretariat for the Use of Force panel. This is to ensure impartiality and the handover will take place once the new Policy Officer has started in the OPCC.
- The Constabulary agree that the current level of scrutiny of BWV is not sufficient and does not enable the panel to identify any real trends, successes or areas for improvement. The Constabulary are supportive of this new BWV panel and a Senior Officer from Crime Reduction and Community Safety will join meetings as they already do with the Stop and Search panel.

3 OPTIONS CONSIDERED

What would a new panel or subgroup do?

1. Review compliance data covering:
 - Did they leave the station with their BWV camera?
 - Did they turn it on at the scene?
 - Was it turned on but not at earliest opportunity?
2. Dip sample and feedback on BWV reviewed for all police powers
 - In a 2.5 hour meeting a group could review approximately eight clips of BWV. This takes in to account time taken in a meeting to review minutes and actions, review any data and then discuss and agree feedback for each S&S reviewed.

- This could be eight clips across the whole group if they were to view them together or could see breakout groups with three groups all able to review eight stop & searches; totalling 20 - 30 pieces of BWV reviewed each meeting.
 - BWV needs to be reviewed during face to face meetings and (to date) sign off has not been given to show footage virtually. Venues will therefore need to be arranged across the county for the panel to meet at. In order to minimise travel there could be two panels to service the county, each meeting every 6 weeks. This would mean that approximately 16 meetings take place across a year.
 - The Panel would also see officer records and accompanying statements where applicable.
 - Clips can be selected that capture multiple uses of police powers
3. Review PSD closed cases for all uses of police powers where a decision has been finalised.
 4. Review complaints received and service recovered by CRT that involve use of police powers but where the nature of the complaint is something else, i.e., incivility.

What are the anticipated challenges?

- Administration time to search for the correct piece of BWV footage and then download it from DEMS.
- There is a risk of losing current members of the Stop & Search panel to a new group as there is a lot of interest in viewing BWV footage. This would have an impact on OPCC time and see further recruitment and training needed.
- Potential to overlap with work undertaken by the Stop & Search and UoF panels with regards to data, complaints and time from PSD. This could be overcome by having a shared meeting every 6 months with these topics covered there.
- Recruitment and vetting
 - It takes a considerable amount of time to take new panel members through recruitment and vetting before delivering training to them. At present vetting is taking at least eight weeks to clear.
 - It is also well recognised that those who we may be most interested in scrutinising stop & search will not want their details to be held on a police database. A number of scrutiny panels no longer take members through vetting and instead use robust confidentiality and volunteer agreements.
 - Access to systems, databases and police premises will be limited and supervised in line with the APP (Authorised Professional Practice) so that vetting is not required. This will help to maximise the pool of individuals who are interested in joining the panel and put Hertfordshire in line with other areas, such as West Midlands and Bedfordshire.
 - Consideration will be given to the existing Use of Force and Stop and Search panel members being invited to join this new panel. This may enable the panel to be operational sooner. However, it is important that we ensure we have a wider pool of volunteers to maintain diversity in thought and experience.

What resourcing would be needed?

- Currently the Constabulary have not been able to identify suitable resources to download the BWV clips from DEMs since the once restricted officers have returned to full duties. However, vetting has given permission for an OPCC analyst to perform this function. An alternate option could be to explore the use police volunteers to locate the selected clips and download the footage and then pass onto the OPCC for editing of the Stop and Search from the rest of the footage captured.
- There are times where BWV is not available of appropriate to share. In order to have 10 pieces of BWV available around 30 records would need to be randomly chosen. This is to mitigate against the number of records that may no longer be available (i.e., deleted as non-evidential), where there was no BWV recorded for the incident (i.e., Officer does not turn camera on or no battery life remaining), incidents that cannot be shown due to under 18's being searched, or incidents that cannot be shown due to decency (i.e., during the search an intimate area is accidentally exposed). It can take a considerable amount of time to search the database for material after which it needs to be viewed in full and then cropped to show the panel the relevant parts.
- Further resource would be needed from the OPCC in order to manage, support, secure venues, arrange and administer these meetings.

Feedback

Feedback on Stop & Search will cover:

- CSP
- Grounds for search
- Object of search
- Aspects of GOWISELY covered?:
 - Warrant No
 - ID (only required when not in uniform)
 - Station attached to
 - Entitlement to a record
 - Legal Power
 - 'You are detained for the purpose of a search'
- Did the officer treat the individual with dignity and respect?
- Do the recorded grounds reflect the BWV?
- Overall Confidence - Confident/Not Confident/Unsure
- Overall comment / decision taken

Feedback on Use of Police Powers will cover:

- CSP
- Reason for UoF
- Did the officer treat the individual with dignity and respect?
- Overall comment on whether use of force was appropriate

In addition, the panel will consider some general areas:

- Was the camera turned on at the earliest opportunity?
- Is the picture quality clear?
- Did the Officer announce they had the body worn camera turned on?

Furthermore, there will be monthly meetings scheduled with Constabulary colleagues to discuss lessons learned.

4 PROPOSED RECOMMENDATION(S) AND RATIONALE

To approve a new Independent Use of Police Powers Scrutiny Panel using BWV to continue to support improvements in culture and compliance. The panel will be supported by the OPCC with advertising and recruitment to start in late September 2021.

5 BACKGROUND PAPERS



BWV scrutiny
panel_Draft Terms o

Clearance: Amie Birkhamshaw