

Consultation on Police Powers to Promote and Maintain Public Order

Below is a copy of the formal response to the above consultation which was submitted online to the Home Office on the 13th January 2012.

1. Do you think there is a clear difference between 'insulting' words and behaviour and 'abusive' words and behaviour? Please give examples.

The difference between insulting and abusive can be open to interpretation. It could be argued that insulting words are those used deliberately to inflame and incite others for example where race, ethnicity, gender etc are used to stimulate a negative reaction; whereas abusive words are often more general for example the use of swear words which may be offensive to some people but not to others.

2. In your experience, are 'insulting' words and behaviours less serious than 'abusive' words and behaviours. Please give examples.

Again this is open to interpretation. It could be argued that insulting words and behaviour are used to incite and evoke a response whereas abusive words can be part of some people's everyday language.

3. In your view, does having 'insulting' words and behaviour as a criminal offence restrict people from expressing themselves freely?

This depends on the definition of 'insulting' and again is open to interpretation. Individuals ought to express their opinions without resorting to using insulting words and/or behaviour.

4. In your view, would removal of the word 'insulting' from section 5 have any particular impact on specific groups? Please give examples.

Removing the word insulting may remove some protection from minority groups and without this protection they may have less freedom of expression.

5. If you do have concerns about the word 'insulting' remaining in section 5, can you explain if this is due to interpretation of the word or the actual legislation?

Of the feedback received to date there is a feeling that interpretation of the word is the key concern. However, another view received is that leaving the word 'insulting' in the legislation would be less harmful than the risk of removing it and with it the protection it offers.

6. In your opinion, is the 'reasonableness' defence for 'insulting' (which is a statutory defence in section 5) an adequate safeguard against misuse?

No comments received to date.

7. In your opinion, is guidance to police officers clear on when insulting behaviour constitutes an offence and an arrest should be made and is it sufficiently clear to ensure consistency of decisions?

Whilst the training given to officers may be robust enough interpretation by individual officers may on occasion not be consistent but in this event the Courts will make the ultimate decision on whether an offence has been committed.

8. Do you think that the threshold for arrest under section 5 is set at the right level?

no comments received.

Questions on powers to remove face coverings

In what circumstances would it be appropriate to require removal of face coverings without prior authorisation by a senior officer?

When a police officer believes that a crime or anti social behaviour may be about to be committed. In extreme cases at times of civil unrest.

2. What should be the trigger under the new power if authorisation by a senior officer is not being sought?

As above if criminal activity is suspected police officers should be able to use their own discretion about whether face coverings should be removed.

3. Do you think that wider powers to demand removal of face coverings may interfere with individual freedoms?

No individuals would be free to wear face coverings provided they have no criminal intent. Further consultation with Stockton BME Network also reinforced this view in relation to alternative religions/cultures. It was agreed that if an individual was committing a public order offence the removal of face coverings would overrule and religious or cultural beliefs.

4. Do you think that guidance, training and monitoring could help to ensure consistency of officers' decisions? Please give examples.

Whilst it is appropriate to provide training a common-sense approach is also required. Monitoring should be built in to ensure that the power is not abused.

5. Do you think that penalties for a refusal to comply with a demand to remove a face covering should be made more stringent?

Note - currently offenders are liable to imprisonment for a term not exceeding one month or to a fine not exceeding £1,000 or both.

The current sanction is appropriate

6. In your view, should officers be required to explain the reason for the demand to remove face coverings?

Yes

7. Do you think that officers should be required to conduct the identification in reasonable privacy, if requested, even though it might cause a delay in the response?

If the covering is for religious/cultural reasons

Questions on powers to impose curfews

1. What are your views on the proposal to give the police a limited, general power to impose curfews?

The Safer Stockton Partnership agreed that we would not use curfew powers because it penalises those who are not causing problems, usually young people. The Police have sufficient powers to use Dispersal Orders which have the same results and outcomes with less disruption to innocent people. If this proposal was to be progressed it has been suggested that there should be a requirement to consult with the local authority prior to any curfew.

2. Do you think there should be limits on the geographical scope and duration of such a curfew power? If so, what do you think would be appropriate limits?

This should only be used as an emergency perhaps in times of civil unrest therefore 24hours could be an appropriate time with the geographical area determined by intelligence analysis

3. What do you think would be an appropriate sanction for breach of an instruction to leave a curfew zone?

No comments received.

4. What are your views of the proposal to make a curfew one of the recognised rehabilitative options for a conditional caution?

Sounds a sensible option for individuals

5. In what circumstances might a curfew be an appropriate response to low-level offending?

As a last resort prior to a more serious sanction such as an ASBO.

6. Are there other powers you think would help the police take a more preventative approach to local crime, particularly youth crime? If so, what are they?

Current powers are working well in our area.

7. What role should parents play in preventing local youth crime? How could they be encouraged to do so?

When funding was available through the Youth Crime Action Plan we were able to forcibly involve parents when young people were found on the street at night at risk of offending. As part of this process they were offered a range of parenting support. Due to the removal of key funding streams we no longer have the capacity to offer this work therefore it is more difficult to engage the parents of young people who are on the cusp of offending.