

Response to the Home Office consultation on Stop and Search

1. The CBA represents the views and interests of practising members of the criminal Bar in England and Wales.
2. The CBA's role is to promote and maintain the highest professional standards in the practice of law; to provide professional education and training and assist with continuing professional development; to assist with consultation undertaken in connection with the criminal law or the legal profession; and to promote and represent the professional interests of its members.
3. The CBA is the largest specialist Bar association, with over 4,000 subscribing members; and represents all practitioners in the field of criminal law at the Bar. Most practitioners are in self-employed, private practice, working from sets of Chambers based in major towns and cities throughout the country. The international reputation enjoyed by our Criminal Justice System owes a great deal to the professionalism, commitment and ethical standards of our practitioners. The technical knowledge, skill and quality of advocacy all guarantee the delivery of justice in our courts, ensuring that all persons receive a fair trial and that the adversarial system, which is at the heart of criminal justice in this jurisdiction, is maintained.
4. The CBA have had the benefit of considering the Bar Council's response to the Home Office consultation as to how effective and proportionate it would be to extend the power of reasonable grounds of 'stop and search' to cover:
 - (i) the proposed offence of carrying a corrosive substance in a public place under the Offensive Weapons Bill 2018;
 - (ii) the misuse of laser pointers to commit certain offences under the Laser Misuse (Vehicle) Act 2018;
 - (iii) the misuse of drones to commit certain offences under the Air Navigation Order 2016 and the Prisons Act 1952.

5. The CBA agrees with the Bar Council's analysis that Section 1 of the Police and Criminal Evidence Act 1984¹ [PACE] is probably broad enough to capture some of the behavior in question. However it is accepted that there is scope to argue that PACE does not provide a specific power to stop and search in the case of the proposed offence of possessing corrosive substances in a public place without good reason. There certainly aren't any specific powers in relation to the new legislation regarding the aforementioned prohibitions on laser pointers and or drones.
6. It therefore follows that the CBA believes that the proposed stop and search powers are proportionate and necessary in enforcing the new legislation relating to crimes involving drones, laser pointers and corrosive substances.

¹ 15-82 Archbold 2018: Section 1 of the PACE Act 1984 creates a uniform power to stop and search in England and Wales. It does not, however, replace all other statutory powers of stop and search for example, under the Firearms Act 1968, s.47(3) (*post*, § 24-111); the Misuse of Drugs Act 1971, s.23(2) (*post*, § 27-102); the Terrorism Act 2000, s.43 (*post*, § 25-54); and the Aviation Security Act 1982, ss.13(3) and 24B. As a general power, it has now been supplemented by the CJPOA 1994, s.60 (*post*, § 15-93).