1 Should the Code of Practice state what the primary purpose of Stop and Search is?

Yes

If yes, please specify below:
A simple, explicit statement of the purpose of Stop & Search would be a helpful addition to the draft Code. Wherever possible all messages in the draft Code need to be in plain English, short and accessible to people with low reading ages. Summary information should also be prepared.

2 Should there be a separate section of the Code of Practice to deal specifically with searches of children and young people?

Yes

2A If you answered YES to Q2 – do you have any suggestions as to what should be included in a section on children and young people? (if so, please specify below)

If you answered YES to Q2 – do you have any suggestions as to what should be included in a section on children and young people?:
A separate section on rights and responsibilities of children and young people would be helpful as there has been a change in policy which needs to be clearly communicated.
Basic information on age thresholds, procedures and practicalities, appropriate support, and the right to refuse where appropriate needs to be included.

3 Should there be a separate section of the Code of Practice to deal specifically with searches of adults at risk and vulnerable adults?

Yes

3A If you answered YES to Q3 – do you have any suggestions as to what should be included in a section on adults at risk and vulnerable adults? (if so, please specify below)

If you answered YES to Q3 – do you have any suggestions as to what should be included in a section on adults at risk and vulnerable adults?:
As above specific information aimed at people who are known to be potentially vulnerable would be of assistance, As above (2A) it should cover the basics of the engagement between the police and the individual.

4 Should the Code of Practice include a section about local public scrutiny of how Stop and Search is used?

Yes
4A If you answered YES to Q4 - do you think the existing local scrutiny arrangements should be used, or do you have any other suggestions? (if so, please specify below)

If you answered YES to Q4 - do you think the existing local scrutiny arrangements should be used, or do you have any other suggestions?: Existing local scrutiny arrangements should be used.

5 Do you think it is necessary to record any information about searches carried out under section 67 of the Criminal Justice (Scotland) Act 2016? (if so, please specify below what information should be recorded)

Yes

Which information should be recorded?: The information set out in Section 6.6 is sufficient.

However the EHRC has one concern about the inclusion of "national origin" in this, which we understand was added as an amendment to the legislation as it passed through Parliament.

Having looked at the Equality Act, its guidance and associated discussions it is not entirely clear what the collection of this data would add. The phrase "national origins" is part of a broader categorisation under the term, "race" in the Equality Act which defines 'race' as including colour, nationality and ethnic or national origins.

However, the term "National origin" is not defined in the Equality Act 2010, but the Equality Act 2010 Statutory Code of Practice Employment does make the following definition:

2.43 "National origins must have identifiable elements, both historic and geographic, which at least at some point in time indicate the existence or previous existence of a nation. For example, as England and Scotland were once separate nations, the English and the Scots have separate national origins. National origins may include origins in a nation that no longer exists (for example, Czechoslovakia) or in a ‘nation’ that was never a nation state in the modern sense.

2.44 National origin is distinct from nationality. For example, people of Chinese national origin may be citizens of China but many are citizens of other countries.

2.45 A person’s own national origin is not something that can be changed, though national origin can change through the generations."

This is distinct from a "racial group" which is defined as being " a group of people who have or share a colour, nationality or ethnic or national origins."

Currently Police Scotland use the Scottish Census categories (with allowances for additional subgroups to be added when it is felt to be relevant - for example "Polish" under "White Other").

The term "national origin" appears to have been added to Act without any definition, so the definition given above in the EHRC Code of Practice would be appear to be the most reasonable definition to be used.

As far as we are aware there is no data to suggest that people are being stopped and searched on the grounds of their national origin - for example we have heard of no evidence which suggests disproportionality between Scottish and English people or any other national difference. However because it is mentioned in the Act there is now an expectation that monitoring on this basis should commence.

The EHRC would advise against this unless evidence can be identified which suggests a problem of "national origin" which needs to be monitored and analysed. Unless such evidence is available we feel that the addition of questions on "national origin" is unnecessary and may lead to confusion amongst constables and persons stopped as to the purpose and utility of the information being sought.

6 Is there anything else that should be included within the Code that would help further promote community wellbeing and provide confidence that Stop and Search is being used with due consideration to Fairness, Integrity, Respect and Human Rights? (if so, please specify below)

No

Is there anything else that should be included within the Code that would help further promote community wellbeing and provide confidence that Stop and Search is being used with due consideration to Fairness, Integrity, Respect and Human Rights?:

7 Is there anything missing from the draft Code of Practice that should be added? (if so, please specify below)

No

Is there anything missing from the draft Code of Practice that should be added?:
8 Is there anything in the draft Code of Practice that should be deleted and/or changed? (if so, please specify below)

Is there anything in the draft Code of Practice that should be deleted and/or changed? :

No

Evaluation

Please help us improve our consultations by answering the questions below.

Matrix 1 - How satisfied were you with this consultation?:
Slightly satisfied

Please enter comments here.: 

Matrix 1 - How would you rate your satisfaction with using Citizen Space to respond to consultations?:
Neither satisfied nor dissatisfied

Please enter comments here.: 