

# Welfare Checks

This guidance sets out Devon & Cornwall Police Policy in relation to requests by external agencies to conduct Welfare Checks on adults and children.



## **Purpose**

This guidance is written to clarify Devon & Cornwall Police policy in relation to requests by external agencies to carry out 'Welfare Checks' on vulnerable adults and children. This document is intended to provide Officers with an overview of when Welfare Checks should be undertaken and does not include an exhaustive list of Police powers of entry. Officers should therefore familiarise themselves with the relevant provisions of PACE and the Codes of Practice.

## **Policy**

Devon & Cornwall Police will respond to requests for assistance from external agencies to conduct Welfare Checks on adults at risk and children where the following criteria are met:

- There is an identifiable and immediate risk to life or property.
- The adult at risk or child is suffering or are at risk of suffering immediate and significant harm.
- It is reasonably believed that a crime has been committed or is about to be committed.
- Attendance of a Police Officer is necessary to prevent a Breach of the Peace.

Devon & Cornwall Police will not accept responsibility for carrying out checks where an agency makes a request which does not meet any of the above criteria.

## **Background**

Police, Crime Commissioner and the Chief Constable of Devon & Cornwall Police are committed to protecting vulnerable people in our communities and this is clearly set out in the Police and Crime Plan. Devon & Cornwall Police is specifically committed to the continued development of effective partnership working arrangements with both statutory and non-statutory partners.

Analysis of Police incident logs has identified that requests by external agencies to conduct 'Welfare Checks' have been steadily increasing and that some of these requests are not appropriate for Police Officers to deal with.

Devon & Cornwall Police Officers and staff have specific duties and responsibilities to carry out in protecting the public and the purpose of this policy is to ensure that Police resources are utilised to best effect and in accordance with these duties and responsibilities.

The Statement of Common Purpose and Values for the Police Service sets out that;

"The purpose of the Police service is to uphold the law fairly and firmly; to prevent crime; to pursue and bring to justice those who break the law; and to keep the Queen's Peace; to protect, help and reassure the community; and to be seen to do all this with integrity, common sense and sound judgement".

The law provides Constables with certain powers to enable them to fulfil their duties, e.g. power of entry to premises, but it is important to note that there is no general duty to ensure the welfare of citizens and that Police Officers are accountable for their decisions in utilising these powers. This is described in more detail below.

It is also the case that the presence of a uniformed Police Officer can have a significant negative impact on vulnerable individuals and therefore the deployment of Officers needs to be necessary and proportionate in the circumstances.

## **Legal Considerations**

Police have a range of powers deriving from statute that enable us to carry out their duties. Where there is no specific legislative power, courts will often imply a power that corresponds to the core duties, to enable Police Officers to lawfully fulfil that duty. However, powers do not extend simply to facilitate Officers acting in excess of those core duties.

Police have a positive duty to protect life under article 2 of the European Convention of Human Rights, incorporated into UK law by the Human Rights Act 1998. This obligation arises where Police know, or ought to know, about a real risk to life. In situations where a 'Welfare Check' is carried out by Police and there is an identified risk to life, Officers may seek to rely upon Section 17 of the Police and Criminal Evidence Act 1984, which provides that:

"1) Subject to the following provisions of this section....a constable may enter and search any premises for the purpose-

.....

(e) Of saving life or limb or preventing serious damage to property."

In this particular scenario, S17 (1) (e) enables an Officer to carry out their core duty to protect life and property.

In the case of *Syed v DPP [2010]* the High Court ruled that this provision did not justify entry where there was a general concern for the welfare of someone within the premises

and therefore Officers were not acting in the execution of their duty when purporting to rely on s17 to force entry against the wishes of the person who answered the door.

Mr Justice Collins said:

“It is plain that Parliament intended that the right of entry without any warrant should be limited to cases where there was an apprehension that something serious was otherwise likely to occur, or perhaps had occurred, within the house....Concern for welfare is not sufficient to justify an entry within the terms of section 17(1) (e). It is altogether too low a test.

I appreciate and have some sympathy with the problems that face Officers in a situation such as was faced by these Officers. In a sense they are damned if they do and damned if they do not, because if in fact something serious had happened, or was about to happen, and they did not do anything about it because they took the view that they had no right of entry, no doubt there would have been a degree of ex post facto criticism. But it is important to bear in mind that Parliament set the threshold at the height indicated by section 17(1)(e) because it is a serious matter for a citizen to have his house entered against his will and by force by Police Officers.”

A Breach of the Peace is defined as the behaviour of a person that causes a person to believe that (1) a breach of the peace had or would occur **and** that (2) it related to harm which was actually done or likely to be done to a person or, in his/her presence, their property (R v Howell [1982]).

In recent years, forces across the country have had numerous cases where exactly this type of post event examination has been carried out during inquest proceedings. Some cases have led to rule 43 recommendations/Regulation 28 reports by coroners.

Essentially, Welfare Checks should not encroach on an individual's right to privacy.

## **Procedural Guidance**

Devon & Cornwall Police will accept responsibility for carrying out checks on the welfare of vulnerable people where any of the criteria set out in this policy are met.

When requests are made for Welfare Checks, the exact nature of the immediate threat, risks and potential harm relating to the vulnerable person must be established.

Police will carry out a 'Welfare Check' when a request is made to Police about an individual, if it is an emergency situation, where there is a real concern or a degree of apprehension of some serious injury/loss of life without immediate Police intervention, or serious damage is being done or is immediately threatened to property.

The Police will respond because it enables a professional intervention if an individual is in need of immediate assistance due to a health condition, injury or some other life threatening situation. Unless this threshold is reached, Police have no duty, and therefore

no additional power, to take any action once outside the premises. Officers are reminded that S17 PACE does not provide Officers conducting emergency Welfare Checks where it is reasonably believed that a crime has occurred or is about to or where it is necessary to prevent a breach of the peace as per criteria 2 and 3 of the above Policy (The adult at risk or child is suffering or at risk of suffering immediate and significant harm; or, it is reasonably believed that a crime has been committed or about to be committed) with an automatic right of entry to the premises.

(Note:- Officers considering their power under S17 PACE must ensure that they gather as much information as possible in support of their grounds and record the same as soon as reasonably practicable following the event. This might include speaking with occupants, neighbors or collating any other information/intelligence to support an honestly held belief that entry without warrant is necessary. There will of course be circumstances when the Officer will not consider this to be appropriate due to the emergency nature of the situation. In these circumstances, the Officer should ensure their report contains details of their reasoning for immediate entry).

### **Non emergency Welfare Checks**

In the event that the threshold for Police attendance is not satisfied, the concern (and the resolution of that concern), will remain that of the requesting agency.

It may occasionally be considered appropriate for Police to accompany another agency to conduct such a check, but this will need to be assessed on a case by case basis and it is for the requesting agency to provide the relevant information/intelligence to support the need for the presence of the Police. If the requesting agency cannot provide and evidence good reason, **Police will not attend**. The responsibility for dealing with the matter will remain that of the requesting agency.

If a 'Welfare Check' is carried out by Police, the Officer/s carrying out the check must update the relevant agency and comply with ViST policy.

If however another Police Force request Police attendance, Police will attend. The attending Officer/s should satisfy themselves that the threshold for entry is met even when the request for attendance originates from another Police force.

### **Escalation Policy**

In the event of a disagreement between the requesting agency and Police, the matter should be referred to the Force Incident Manager (FIM) who will be responsible for determining whether Police resources are deployed.