

**EAST AYRSHIRE COUNCIL**

**COUNCIL MEETING - 14 OCTOBER 2004**

**Information Note by Head of Administrative and Legal Services**

**KILMARNOCK NORTH LOCAL COMMITTEE OF 25 MAY 2004 - SAFER STREETS POLICE REPORT - DRUG DEALING FROM COUNCIL HOUSING**

Following a question from Councillor W Coffey at the last Council meeting held on 24 June 2004, the Head of Administrative and Legal Services undertook to write to Strathclyde Police

- (i) to seek clarification of Strathclyde Police's policy with regard to Officers entering people's homes (whether privately owned or rented from the public/private sectors) without a warrant where good cause is given, with a view to apprehending alleged drug dealers; and
- (ii) to request that Strathclyde Police exercise a greater degree of discretion in such circumstances with a view to maximising apprehension of drug dealers.

Submit letter dated 18 August 2004 from the Head of Administrative and Legal Services and subsequent response dated 23 September 2004 from Strathclyde Police (attached).

David Mitchell  
Head of Administrative and Legal Services

Enc(2)

7 October 2004

JA/FM

Our Ref: LS/GEN/DM/SM

Your Ref:

18<sup>th</sup> August, 2004

Superintendent E. Weir  
Kilmarnock Police Station  
St. Marnock Street  
KILMARNOCK  
KA1 1DZ

Dear Superintendent Weir

**COUNCIL MEETING - 24<sup>th</sup> JUNE, 2004  
POLICE POWERS OF SEARCH & ENTRY**

I refer to your recent meeting with my colleague Peter Hessett regarding anti-social behaviour issues, at which I understand he also took the opportunity to advise you of a separate issue which had been raised by Councillor Willie Coffey at the last meeting of the full Council on 24<sup>th</sup> June, 2004, relative to Police powers of search and entry in respect of private dwellings.

At the meeting on 24<sup>th</sup> June, 2004, the Council agreed at the request of Councillor Coffey:-

1. To seek clarification of Strathclyde Police's policy with regard to officers entering peoples' homes (whether privately owned or rented from the public/private sectors) without a warrant where good cause is given, with a view to apprehending alleged drug dealers, and
2. To request that Strathclyde Police exercise a greater degree of discretion in such circumstances with a view to maximising apprehension of drug dealers.

I am aware that having raised this matter at the Council meeting, and met with a positive response, Councillor Coffey has also sought to pursue the matter directly with yourselves, leading to a meeting on 14<sup>th</sup> July, 2004.

Notwithstanding this, I would be grateful if you could formally confirm the approach adopted by Strathclyde Police in these matters in the course of responding to the above issues so that I can report this back to the next meeting of Council on 14<sup>th</sup> October, 2004.

I thank you in anticipation of your assistance and confirm I would be happy to discuss matters in further detail if that would be of any help.

Yours sincerely



David Mitchell  
Head of Administrative & Legal Services

23 September 2004

Your Ref: LS/GEN/DM/SM

Our Ref: JK/RC



**STRATHCLYDE  
POLICE**

**CHIEF CONSTABLE**  
William Rae QPM

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Mr David Mitchell  
Head of Administrative and Legal Services  
East Ayrshire Council  
Council Headquarters  
London Road  
Kilmarnock  
KA3 7BU

Dear Mr Mitchell

### **POLICE POWERS IN RELATION TO DRUGS MISUSE**

I refer to your letter dated 18 August 2004 and discussions in relation to the powers police in Scotland have in relation to entry and search of premises for illegal drugs and their suppliers.

The law and defined police powers in relation to drugs, their illegal possession, supply or sale, and their control are principally outlined in statute criminal law governing the entire United Kingdom, primarily under the Misuse of Drugs Act 1971, as amended.

This Act outlines that if a constable has reasonable grounds for suspecting that any controlled drug is in the possession of any person on any premises he may apply to a Sheriff, Magistrate, or Justice of the Peace for a warrant to effect entry to that premises, if need be by force, and to search the premises and any person found therein. These powers are replicated for drug suppliers and are normally adopted to address this sole issue.

The warrant is granted to the police officer if the Sheriff, Magistrate or Justice of the Peace is satisfied that the information provided to them, on oath or affirmation, appears to be genuine and corroborated.

Accordingly, the police have to put in place a strategy that is transparent to protect integrity and cannot act without "reasonable grounds" and it follows that the police and its partner agencies require to glean sufficient information, intelligence, or indeed evidence to justify their actions at all times.

Police officers can only stop and detain alleged drug suppliers without a warrant when they are present within a public place or in what can be described as a public building where the constable or any other person has a right of access whether on payment or otherwise.

I can confirm that there are few occasions when the police can act on an ad-hoc basis to effect entry into a dwelling house without a warrant. These events are summarised generally in common criminal Scots law as follows.



1. In the event of a serious disturbance within the premises in order to suppress the disorder.
2. When in close pursuit of a person who has committed a serious crime.

Even in the latter example, the law suggests an option for the police officer is to consider watching the house to prevent the offender's escape until a warrant is obtained. This may be regarded as good practice as it allows sufficient resources to be directed to the operation.

Obviously there are a number of permutations to the law and the various scenarios the police could be presented with on a daily basis, however having been directly involved with pro-active policing for a considerable amount of time I can think of no legal justification in the police effecting entry into a dwelling house to instigate a systematic search for controlled drugs without a lawful warrant being in the organisation's possession. Moreover, the search that follows any execution of a warrant is systematic and detailed as suppliers conceal drugs in a variety of places to evade detection. This clearly requires a large number of officers to be thorough and this is always best as part of a planned operation.

Notwithstanding, the aforementioned law and police powers, Strathclyde Police in East Ayrshire, maintain their proactive approach to challenging drug suppliers. For the period from April 2004 to date, 118 drug suppliers were reported to the Procurator Fiscal with 102 for the corresponding period last year. The number of people reported for possession of illegal drugs from April 2004 to date is 475, with 462 reported in the same period last year. It is also worthy of note that the evidence from those found in possession of illegal drugs provides further evidence in relation to the targeting of drugs suppliers.

The key to targeting suppliers of illegal drugs is accurate and plentiful supply of community intelligence. The police will collate and analyse when there is a sufficiency of accurate intelligence to obtain a warrant, plan and execute a legal entry and search under the Misuse of Drugs Act 1971. This is the most effective method in the recovery of drugs and arrest of the unlawful suppliers when proper planning and preparation has been put in place.

What is clearly required is for elected members and the public to assist the police in providing a regular flow of information, either directly to the police in East Ayrshire or through Crimestoppers.

It is also of note that the police in East Ayrshire work closely with partner agencies in terms of education, as well as enforcement.

I trust this information is helpful to you and assists in clarifying police procedures and the law relative to challenging drug supply taking place within dwelling houses.



Elizabeth Weir  
Superintendent  
Sub Divisional Officer  
East Ayrshire