



Criminal Law Solicitors' Association
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CLSA response to the consultation:
Proposed amendments to PACE Codes of Practice A and C: strip searches
Response 10th June 2024

The Criminal Law Solicitors' Association is the only national association entirely committed to professionals working in the field of criminal law. The CLSA represents criminal practitioners throughout England and Wales and membership of the Association is open to any solicitor - prosecution or defence - and to legal advisers, qualified or trainee - involved with, or interested in, the practice of criminal law. The CLSA is responding to the consultation on behalf of its members.

Summary of proposed changes

1. PACE Code C

a) Introduce a new requirement for police custody officers to consult an officer of at least the rank of inspector prior to conducting an EIP search of a child or vulnerable person in custody.

EIP searches in custody are currently required to be authorised by a custody sergeant. The CLSA agree that this new requirement will provide further accountability and scrutiny of EIP searches in custody.

b) Clarify that if any time, an officer has reason to suspect that a person may be under 18, in the absence of clear evidence to dispel that suspicion shall be treated as a child for the purpose of the code and any other code.

The CLSA agree this is the correct approach in addressing safety and welfare considerations of a child in custody.

c) Introduce new requirement to notify a parent/guardian of the search and its outcome as soon as practicable when an EIP strip search takes place, prioritising before a search if practicable and where this is not possible (e.g., when parent / carer cannot be identified) this should be recorded.

This is in addition to the provision of an Appropriate Adult and should contribute to the better safeguarding and welfare of the child in many cases. This is to be welcomed but careful consideration should also be given to the child's preferences as envisaged in paragraph d) below.

d) Add a paragraph to the PACE Codes which makes clear the potentially traumatic impact of the strip searches on children, the officer's duty to give due regard to safeguarding needs, to take appropriate action to ensure the child's dignity, rights and welfare are primary considerations, and to seek and give due regard to the child's preferences with respect to considerations such as the location of the search and the notification of a parent or guardian.

Agree.

e) Introduce a new requirement to notify an officer of the rank of at least superintendent as soon as practicable following any urgent strip search of a child or vulnerable adult – ie, where no appropriate adult was present.

The CLSA agree that any strip search of a child or vulnerable adult is a significant interference with a person's rights and is likely to be traumatic. It is important that a senior officer of at least the rank of superintendent is notified where no appropriate adult was present for the primary purpose of safeguarding and welfare of the child or vulnerable adult.

f) Require that a safeguarding referral should be made whenever a EIP search or an intimate search of a child takes place

Yes, agree. This implements safeguarding and welfare measures following recognition that a an EIP search or an intimate search can be traumatic for the detainee.

g) Clarify that appropriate adults of the opposite sex can only be present during strip search if known to the detainee, and the detainee agrees.

Yes, agree. This is giving the child a choice and a level of dignity during a strip search.

h) Require that where more than outer clothing is removed from a detainee in custody due to concerns for the detainee's welfare, to preserve evidence, or any other reason set out in Code paragraph 4.2, the appropriate provisions in Annex A shall apply.

Yes, agree. It is welcome to see that due regard must be given to the child or vulnerable adult's safeguarding needs, acknowledging that it is potentially traumatic to the child or vulnerable adult.

2. PACE Code A

a) Introduce a new requirement that any search of a child or vulnerable person involving the exposure of intimate parts (EIP), conducted under stop and search powers, must be authorised by an officer of at least the rank of Inspector.

Yes, agree. This introduces an appropriate level of supervision where EIP is envisaged by an officer conducting stop and search.

b) Replicate as far as is relevant in Code A the Code C provisions on the conduct of a strip search, as set out above. This is to ensure that provisions on EIP searches in Code A are self-contained.

Yes, this makes following the provisions a simpler exercise in so much as they are self-contained and offer less scope for confusion in applying the increased protective measures brought in with the proposed amendments.