



Criminal Law Solicitors' Association
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CLSA response to:

Proposed Amendments to PACE Codes of Practice – Code H – Terrorism

Response – 24th June 2024

The Criminal Law Solicitors Association is the only national association entirely committed to professions 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

Code H

1.11

Amends and clarifies the conditions under which a person should be treated as a juvenile in the absence of clear evidence that they are not.

It is agreed that this proposal will bring consistence and clarity to the codes and broaden the scope of suspicion beyond considerations of appearance, to align more closely with the identification of vulnerability covered elsewhere in Code C. It is agreed that this would reduce the risk of misidentifying children.

1.11 B

Insert paragraph referring to chief constables' duties under section 11 of the Children Act 2004.

Noted.

4.2 A

Insert a paragraph requiring that where more than outer clothing is removed from a detainee for the detainee's own welfare or to preserve evidence, the procedure shall be subject to the same safeguards as apply to the strip search for concealed items.

The CLSA agree that this proposal will ensure that appropriate safeguards apply wherever more than outer clothing is removed from a detainee in police custody.

Code H, Annex A

4

No observation.

11

Expands the scope of paragraph 10 to allow for the provisions in change to 4.2 A to take effect.

No observations.

11.A

Inserts a paragraph creating a new requirement for police custody officers to consult an officer of at least the rank of Inspector prior to authorising 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 in such cases.

11.B

Inserts a paragraph which refers to the duties under section 11 of the Children's Act and requires that safeguarding needs and the potentially traumatic impact of an EIP search should be given due regard by both the custody officer when deciding whether to authorise any search, and by the inspector when advising the custody officer.

The CLSA support this proposed change in relation EIP searches.

12 (b)

Adds text to clarify that where appropriate, adults of the opposite sex may only be present during strip search if known to the detainee, and the detainee agrees.

The CLSA agree that any strip search is a significant interference with a person's rights and is likely to be traumatic. It is agreed that this is a sensible clarification of the conditions under which a search should take place.

12 (c)

Clarifies that except in urgent cases as above, a search of a juvenile may take place in the absence of the appropriate adult only if the juvenile signifies in the presence of the appropriate adult that they do not want the adult to be present during the search and the appropriate adult agrees.

The CLSA agrees that this is useful clarification and fully supports this change.

Note A 6 (a)

Requires that the search shall be conducted with particular regard to the dignity, rights and welfare of the juvenile, and that the juvenile's preferences shall be taken into account in respect of matters such as the presence of a parent or guardian.

The CLSA agree.

Note A 6 (b)

Introduces a requirement to notify an officer of the rank of at least superintendent as soon as practicable following any urgent EIP search of a child or vulnerable adult where no appropriate adult was present.

The CLSA agree that this is a useful safeguard in such circumstances.

Note A 6 (c)

Introduces a requirement that a parent or guardian (or other responsible person in certain circumstances) must be informed as soon as practicable, and for a record to be made if this is not possible.

The CLSA agree that this is a sensible and useful requirement to introduce.

Note A 6 (d)

Introduces a requirement that a safeguarding referral is to be made whenever a EIP search or an intimate search of a child takes place.

The CLSA again agree that this is a sensible requirement to introduce.