

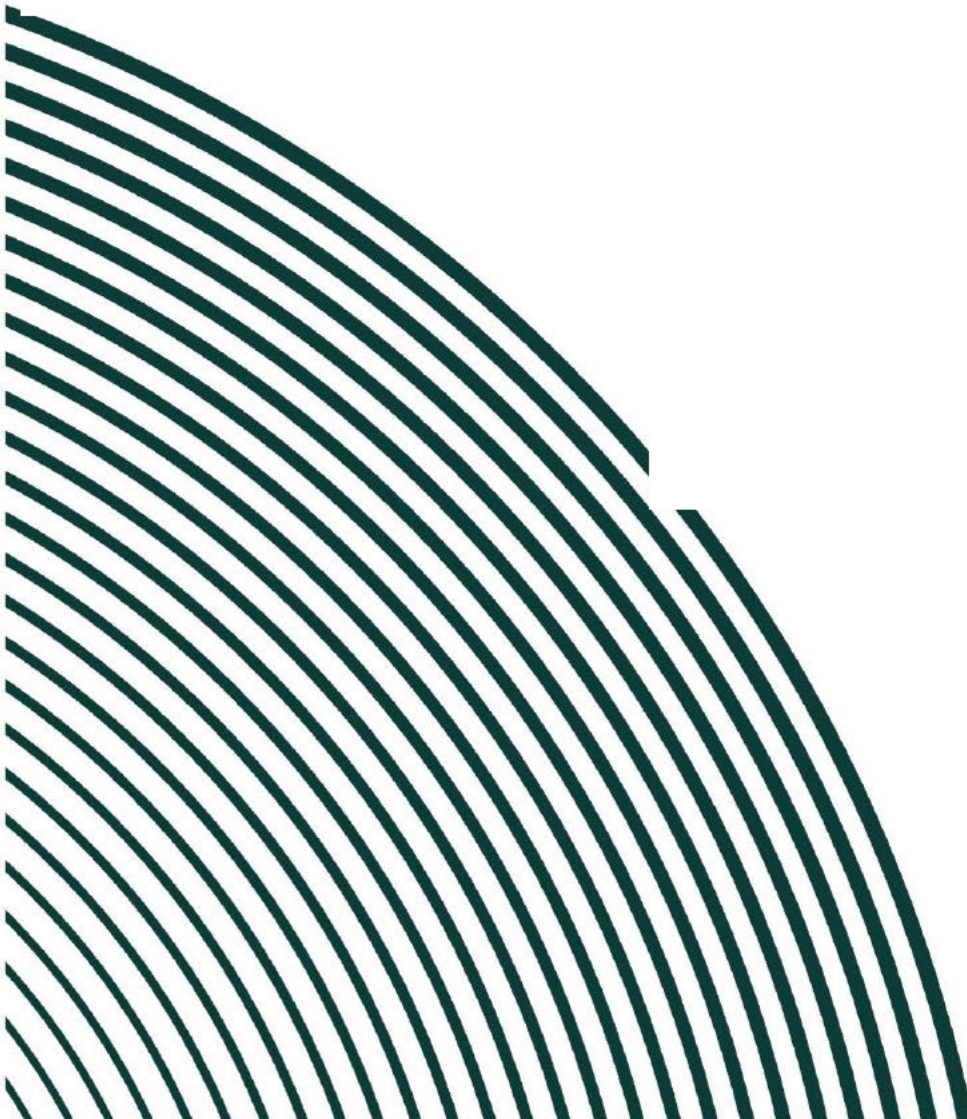


Police Service
of Northern Ireland

V1.1 Guidance on the Conduct of Juvenile Strip Searches in Police Custody.

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**we care
we listen
we act**

CONTENTS

	Page No
1. Context	1
2. Legislation	3
3. Recording a Change of Clothing as a Strip Search	5
4. Reasonable Suspicion Test	8
5. The Role of the Appropriate Adult	9
6. The Conduct of a Strip Search	12
7. Safeguarding Referrals	14
8. Oversight and Governance	14
9. Contact	15
Appendix 1 Hyperlink to AA1, AA2 and AA3	16
Appendix 2 Juvenile Strip Search Pro Forma	17

1. CONTEXT

The case of Child Q, a 15 year old child who was strip searched in a school in England in 2020, highlighted concerns in relation to the use of Police powers in relation to the strip searching of children ([Child Q and the law on strip search \(parliament.uk\)](#)). In the Northern Ireland context, the issue of strip searching children in custody was raised by a number of organisations in the children's sector which prompted the Northern Ireland Policing Board (NIPB) to examine PSNI compliance with human rights when conducting the strip searching of children.

In June 2023, the Northern Ireland Policing Board (NIPB) published their 'Human Rights Review: – Children and Young People: Strip Searching in Police Custody'

nipolicingboard.org.uk/files/nipolicingboard/2023-06/human-rights-review-children-and-young-people-strip-searching-police-custody.pdf

In this report, a number of recommendations were made to include;

Recommendation 1 - Police And Criminal Evidence (PACE), Art 55 should be re-written to make sure that the 'reasonable suspicion' test applies both to search and seizure in custody so custody officers are required to have an honest and objective basis for their belief that the detained person has concealed a prohibited item before a strip search can be authorised. This will increase the likelihood of this provision complying with Article 8 of the European Convention of Human Rights (ECHR), to ensure that fewer juveniles are strip

searched and that the procedure is more clearly targeted at those with prohibited and concealed items.

Recommendation 2 - PACE Codes A and C should be amended to make it clear that strip searches of children should only occur when the new proposed reasonable suspicion test is met (Recommendation 1) and when there is no other alternative available to find the item or protect the detained person or others. These Codes should also remind all police officers of their duty to safeguard children, even during strip searches.

This should include:

- Clear guidance on making a safeguarding referral whenever a child is strip searched;
- Setting out more clearly the need for an Appropriate Adult to be present before and during a strip search;
- Clearer guidance on the exceptional circumstances when the presence of an Appropriate Adult can be dispensed with to minimise any ambiguity around the term 'urgency'.

Until these changes are made in the PACE Codes, the PSNI should draft and publish a Service Instruction containing these provisions.

This guidance is a response to the recommendation that PSNI should draft and publish a Service Instruction until the proposed changes to PACE have been made.

Note – Recommendation 2 also recommends changes to PACE altering the requirement for authorisation for strip searches to be by

both the Custody Officer and an Inspector. As this change has not yet been made, and in accordance with the current PACE NI Order, authorisation for a strip search will continue to be required from the Custody Officer.

2. LEGISLATION

The European Convention on Human Rights (ECHR).

(ECHR) specifies that restrictions on human rights must be lawful. The police, as state agents, are therefore under an obligation to act in accordance with the law when exercising powers that may interfere with individual rights under the ECHR. The Human Rights Act (1998), which incorporates the ECHR into UK law, also sets out in section 6(1) that it is unlawful for a public authority to act in a way that is incompatible with a Convention right. The requirement to submit to a strip search will generally constitute an interference under Article 8 of ECHR - the right to respect for private and family life. It is permissible to interfere with a qualified right under ECHR where the interference is necessary and for a lawful purpose. This guidance is to ensure the interference with Article 8 through conducting a strip search is done in a lawful manner, ensuring the rights of the child are safeguarded and respected at all times.

In addition, Article 3 ECHR states that no person can be subjected to inhuman or degrading treatment. This is an absolute right, and there are no exceptions to this. Treatment is considered to be 'degrading' if it is humiliating, if it diminishes human dignity, or if it arouses feelings of fear and anguish. If a child is required to submit

to a strip search in such a manner, this may constitute a breach of Article 3. Where a strip search is conducted on a person, that person must be treated with dignity and respect at all times.

The United Nations Convention of the Rights of the Child (UNCRC).

Children and young people are a protected group with specific vulnerabilities. Their treatment in detention is governed, not only by domestic legislation, but also by the UN Convention on the Rights of the Child (UNCRC), which the UK has signed and ratified.

The UNCRC defines a child as a human being below the age of 18, unless the relevant laws recognise an earlier age of maturity. In Northern Ireland, a child is anyone under the age of 18.

Article 3 of the UNCRC tells us that ‘In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration’. Under Article 16, ‘No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation. Article 19 states that ‘Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.’

PACE

The power to search an arrested person in custody is provided by Article 55 of the Police and Criminal Evidence (PACE) Order 1989 which states that;

‘(1) The custody officer at a police station shall ascertain ... everything which a person has with him when he is—

- (a) brought to the station after being arrested elsewhere or after being committed to custody by an order or sentence of a court;
or
- (b) arrested at the station or detained there under Article 38(3).

(2) The custody officer may record or cause to be recorded all or any of the things which he ascertains under paragraph (1).

(2A) In the case of an arrested person, any such record may be made as part of his custody record.

Subject to paragraph (4), a custody officer may seize and retain any such items.

3. RECORDING A CHANGE OF CLOTHING AS A STRIP SEARCH

The case of [Davies v CC Merseyside Police \[2015\]\(opens an external website in the same tab\)](#) EWCA Civ 114 has tested the interpretation of PACE Code C, Annex A in the context of a clothes swap within custody. It provides that any removal of more than outer clothing, is a strip search and should be recorded as such.

Although the question of the definition of 'strip search' and any subsequent recording of such was not necessarily sought in the Davies case, in the absence of specific guidance in Code C relating to the removal of clothing under the power given by section 55 and a separate definition for this type of 'search', APP guidance is that the case that the removal of clothing for the detainee's safety, i.e. a 'clothes swap', is, by definition, a strip search. Code C Annex A should be adhered to, and a strip search should be recorded.

From the 1st of November 2024, PSNI will adopt the wider definition of what constitutes a strip search in custody ([Control, restraint and searches | College of Policing](#)). This means that anytime **more than outer clothing is removed** from a DP (eg. seized as part of an investigation/replacement clothing provided for dignity reasons), they will be afforded the protections outlined in Art 55 of PACE.

In terms of how these are recorded on NICHE, the strip search tile should **ONLY** be used to record what we would traditionally class as a strip search ie a search conducted to remove something the DP should not have. While NICHE are working to add additional drop downs in the search tile to cover scenarios such as seizure/dignity, these are not available yet.

Until NICHE has been updated, the following should be completed for searches where clothing is removed due to seizure/for dignity reasons;

1. **Complete a detention Log entry**

Include the following details;

Type – Search


Reason for removal

Whether AA present, if not include the reason

Who authorised the search

Who conducted the search

< Back >

 Detention log entry
TRANSFER, ONE

Type
Search

Entry
Reason for clothing removal;
Seizure
Dignity

Appropriate Adult Present Y/N
If N include reason

Authorized by
Must be Sergeant

Officers/staff completing search

Detainee/other sig. required

2. On the Pre-release Check List, check Received replacement custody clothing

NicheRMS: Release - (TRANSFER, ONE)

Release - (TRANSFER, ONE) Back

Assistant Release TRANSFER, ONE C00315584

Sections

- Pre-release assessment
- Previously identified risks
- Pre-release check
- Return property
- Release from custody

SHORTCUTS

Detention

- Booking in
- Arrest & offences
- Detainee name & info
- Previous detentions

Detainee management

- Risk assessment
- Rights & entitlements
- Photo/fingerprint/DNA/PNC
- Care plan
- HCP
- Detainee property
- Temporary absences/transfers
- Searches
- Detention log
- Documents

Disposal and release

- Disposals
- Release
- Detention log

Detainee homeless?

Details/advice given/ arrangements made:

Has there been any medical intervention/aftercare offered/accepted (e.g. referral) following the use of force?

Provide details:

Other risk identified?

- Intimate search
- PACE 15 (med)
- PACE 16 (escort)
- PACE 19
- Phoenix tab completed
- PNC shares completed
- Received replacement custody clothing
- Referrals sheet provided
- Wanted person / alert check
- Warrant of Further Detention (Court)
- X-rays and Ultrasound (PACE 56a)

Return property

Release from custody

Release time

4. REASONABLE SUSPICION TEST

Code C Annex A of the PACE (NI) Order 1989, tells us that a strip search 'may take place only if it is considered necessary to remove an article which a detainee would not be allowed to keep, and the officer reasonably considers the detainee might have concealed such an

article. Strip searches shall not be routinely carried out if there is no reason to consider that articles are concealed’.

Strip searches of juveniles should only occur when the reasonable suspicion test is met and when there is no other alternative available to find the concealed item or protect the detained person or others.

As per PACE Code A 2.2, ‘Reasonable grounds for suspicion depend on the circumstances in each case. There must be an objective basis for that suspicion based on facts, information, and/or intelligence, which are relevant to the likelihood of finding an article of a certain kind. Reasonable suspicion can never be supported on the basis of personal factors alone without reliable supporting intelligence or information or some specific behaviour by the person concerned. Reasonable suspicion cannot be based on generalisations or stereotypical images of certain groups or categories of people as more likely to be involved in criminal activity’.

Given this, in authorising a Strip Search, Custody Officers should have an honest and objective basis for their belief that the detained person has concealed a prohibited item. Importantly, any decisions in relation to strip searches **must** be recorded on the custody record and include details of the grounds/justification. In applying this test, PSNI will increase the likelihood of this provision complying with Art 8 of the UCHR to ensure that fewer juveniles are strip searched and that the procedure is more clearly targeted at those with prohibited and concealed items.

5. THE ROLE OF THE APPROPRIATE ADULT

When a juvenile is arrested, their parent or guardian must be informed as soon as practicable that (1) they have arrested, (2) the reason for

arrest and (3) where they are detained. If the appropriate adult is not present in the custody suite when it becomes apparent that the strip search of a juvenile is required, the custody officer must, without delay, arrange for them to attend the custody suite.

Unless there is a risk of serious harm to the child/young person, conduct of the search must be delayed until the appropriate adult is present. Even in cases where there is a risk of serious harm, the custody officer must first consider if mitigations (such as constant observation) are available to allow delaying the search until the appropriate adult is present. In all cases, the Custody Officer must ensure that any action taken is proportionate and necessary considering the circumstances at the time.

In all other cases, a strip search can only take place in the absence of an appropriate adult, if the child/young person has requested this and the appropriate adult agrees. In this case, the appropriate adult must still attend the custody suite before the search is conducted and is required to sign the custody record in person to reflect this.

In the case of a juvenile, appropriate adult means

- (i) the parent, relative, guardian or, if the juvenile is in care, a member of a care authority, or voluntary organisation;
- (ii) a social worker;
- (iii) failing these, some other responsible adult aged 18 or over who is not a police officer or employed by the Northern Ireland Policing Board.

A person, including a parent, relative or guardian, should not, however, be an appropriate adult if they are;

- (1) suspected of involvement in the offence
- (2) the victim
- (3) a witness
- (4) involved in the investigation
- (5) appear to be mentally disordered or otherwise mentally vulnerable
- (6) Received admissions prior to attending to act as the appropriate adult.

The role of the appropriate adult is to ensure that the detained person for whom they are acting as appropriate adult understands what is happening to them and why. Their key roles and responsibilities are;

- (a) To support, advise and assist the detained person, particularly while they are being questioned.
- (b) To observe whether the police are acting properly, fairly and with respect for the rights of the detained person and to tell them if you think they are not.
- (c) To assist with communication between the detained person and the police.
- (d) To ensure that the detained person understands their rights and that you have a role in protecting their rights.

On arrival at the custody suite, the Custody Officer should provide the appropriate adult with a copy of forms AA1, AA2 and AA3 and provide them with an explanation of their role. This includes those cases where they are required to be present during a strip search. The custody officer should address any concerns the appropriate adult

may have in relation to privacy, dignity and trauma associated with respect to the conduct of the search.

The name of the Appropriate Adult and their relationship to the child must be recorded on the custody record.

6. THE CONDUCT OF A STRIP SEARCH

A strip search is a search involving the removal of more than outer clothing (outer clothing includes shoes and socks). Strip searches can be traumatic and have a significant and long-lasting impact on the child. Given this, officers and staff should adopt a child centred approach when conducting such a search, listening to the voice of the child and being alive to their views and feelings. Efforts to secure cooperation from the child should be sought, to include requests to surrender any item/items, in order to avoid the necessity for a search.

When a search is necessary, officers and staff should conduct them with respect and dignity, explaining the reason(s) for the search to the child and outlining why it is necessary to take, what may be considered unwelcome, actions such as removal of clothing.

In accordance with The PACE NI Order (1989), when strip searches are conducted:

- (a) a police officer carrying out a strip search must be the same sex as the detainee
- (b) the search shall take place in an area where the detainee cannot be seen by anyone who does not need to be present, nor by a

member of the opposite sex except an appropriate adult who has been specifically requested by the detainee;

(c) except in cases of urgency, where there is risk of serious harm to the detainee or to others, whenever a strip search involves exposure of intimate body parts, there must be at least two people present other than the detainee, and if the search is of a juvenile or mentally disordered or otherwise mentally vulnerable person, one of the people must be the appropriate adult. The presence of more than two people, other than an appropriate adult, shall be permitted only in the most exceptional circumstances;

(d) the search shall be conducted with proper regard to the sensitivity and vulnerability of the detainee in these circumstances and every reasonable effort shall be made to secure the detainee's co-operation and minimise embarrassment. Detainees who are searched shall not normally be required to remove all their clothes at the same time, e.g. a person should be allowed to remove clothing above the waist and redress before removing further clothing; (e) if necessary to assist the search, the detainee may be required to hold their arms in the air or to stand with their legs apart and bend forward so a visual examination may be made of the genital and anal areas provided no physical contact is made with any body orifice;

(f) if articles are found, the detainee shall be asked to hand them over. If articles are found within any body orifice other than the mouth, and the detainee refuses to hand them over, their removal would constitute an intimate search*

(g) a strip search shall be conducted as quickly as possible, and the detainee allowed to dress as soon as the procedure is complete.

A record shall be made on the custody record of a strip search including the reason it was considered necessary, those present and any result

*The touching or applying of bodily force to any orifice (other than the mouth) or the immediate surroundings of any body orifice would constitute an 'intimate search' for the purposes of PACE.

7. SAFEGUARDING REFERRALS

Keeping children safe from harm requires agencies to share information. It is only when information from a number of sources is shared, and put together, that it becomes clear that a child is at risk of harm or is suffering harm.

Given this, the custody officer must submit a Form 0 to social services every time a juvenile is strip searched (click link below to access a form). Exceptions to this may be if the Appropriate Adult acting for the child is from Social Services and so the information has already available to them.

<https://homepoint/sites/ppb/Shared Documents/Form 0.doc>

8. OVERSIGHT AND GOVERNANCE

All strip searches of children in detention are reviewed by the Custody Policy team within PSNI's Justice Branch (see Appendix 4 – Pro Forma to be completed when a child is Strip Searched). This review includes;

- (1) Ascertaining if an appropriate adult was present.

- (2) In cases where an appropriate adult was not present, confirming that the search was either urgent or the juvenile did not want them present during the search.
- (3) Ensuring a clear rationale is recorded on the custody record as to the necessity of a search.
- (4) Ensuring that a clear record of the conduct of the search is recorded on the custody record to include those present and the outcome of the search.

In addition to this, and in response to recommendation 8 of the NIPB's report, Custody Scrutiny Panels have been established.

9. CONTACT

If you have any comment to make on the content of this guidance please contact

APPENDIX 1

To access the suite of Appropriate Adult Forms click the below links;

[AA1 May 2024.docx](#)

[AA2 May 2024.docx](#)

[AA3 May 2024.docx](#)

APPENDIX 2

Juvenile Strip Search Pro Forma

Custody record number	
Custody suite	
Authorising Custody Sergeant	
Age	
Gender	
Appropriate adult present	Yes/No
Length of time for AA to attend suite if applicable	
Rationale to strip search	
Rationale of urgency if no AA	
Level of compliance during search, force used	
Extent of search (clothing removing)	
Search outcome	