

Independent Custody Visiting Association Briefing for Independent Custody Visitors Strip and Intimate Searching Children October 2020



Background

Schemes have asked ICVA (via the NEF) to produce a briefing regarding strip and intimate searches on children (any detainee aged 17 or under), with specific reference to [PACE Code C Annexe A](#). Additional notes have also been taken from the College of Policing Authorised Professional Practice (APP) with [guidance on searching](#) for forces. Throughout this document emphasis has been added by ICVA.

The following gives schemes definitions, when the searches can be used and the main points on how searches ought to be undertaken. There are some specific notes pertaining to child detainees.

Strip Searches

What is a strip search? PACE Code C, Annexe A, point 9 gives the following definition:

“A strip search is a search involving the removal of more than outer clothing. In this Code, outer clothing includes shoes and socks.”

A strip search then, *must* involve the removal of more than just coats and shoes/socks, and *can* involve the removal of *all* clothes, but *may not* include any physical contact from the police or other staff with the detainee.

When can a strip search happen? PACE Code C states:

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.*

How are strip searches conducted? PACE Code C states:

- All strip searches must be carried out by someone of the same sex as the detainee.
- The search must take place in an area that can't be seen by anyone who isn't present at the search and mustn't be able to be seen by someone of a different gender (unless this is an appropriate adult (AA) who has been expressly requested by the detainee).

- Strip searches can involve the exposure of ‘intimate parts’ – where this is the case, PACE Code C states that two people should be present with the detainee (one of which could/should be the appropriate adult if relevant).
- Strip searches must be carried out with proper regard to the dignity, sensitivity, and vulnerability of the detainee. Every reasonable effort shall be made to secure the detainee’s co-operation, maintain dignity, and minimise embarrassment.
- Detainees will not normally be required to remove all their clothes at the same time.
- Detainees may be asked to hold arms aloft, or bend forwards so that ‘a visual examination may be made of the genitals and anal areas.’ PACE is clear that there must be no physical contact.
- Detainees should be asked to hand over any items found. If articles are found within any body orifice other than the mouth, and the detainee refuses to hand them over, their removal must be counted as an intimate search and must be carried out as detailed below.
- Strip searches should be carried out as soon as possible and the detainee allowed to dress as soon as the procedure is complete.

For all strip searches, a record must be made of the strip search, including the reason it was considered necessary, those present and any result.

What are the particular arrangements for children?

As per strip searching generally, children must be searched by someone of the same sex as themselves, with all of the considerations above. There are specific arrangements for children in the case of the exposure of ‘intimate areas (those being described as bodily orifices other than the mouth).’

If the search includes ‘intimate areas’ one of those present should be the appropriate adult (AA) unless the child expressly states with the AA present that they do not want the AA in the room at the time of the search and the AA agrees. If this is the case, a record must be made of the child’s decision, and it must be signed by the AA.

The [APP](#) notes that:

‘Where an *urgent* strip search is conducted of a young person *prior* to the arrival of an appropriate adult, officers must record the justification along with what action has been taken to secure the immediate attendance of an appropriate adult.’

What else should be taken into account?

Children and young people are often extremely sensitive about their bodies and personal space for any number of reasons. As per PACE, forces should take care to minimise trauma to any child or young person from a search and regard them as vulnerable by deed of their age.

Intimate Searches

What is an intimate search? PACE Code C, Annex A, point 1 gives the following definition:

An intimate search consists of the physical examination of a person's bodily orifices other than the mouth. The intrusive nature of such searches means that the actual and potential risks associated with intimate searches must never be underestimated.

When can they be used?

There are very specific arrangements for intimate searching. PACE Code C states that:

2. Body orifices other than the mouth may be searched only:

- (a) if authorised by an officer of inspector rank or above who has reasonable grounds for believing that the person may have concealed on themselves:
 - (i) anything which they could and might use to cause physical injury to themselves or others at the station; or
 - (ii) a Class A drug which they intended to supply to another or to export; and the officer has reasonable grounds for believing that an intimate search is the only means of removing those items; and
- (b) if the search is under *paragraph 2(a)(ii)* (a drug offence search), the detainee's appropriate consent has been given in writing.

Therefore, there is a higher level of authorisation for an intimate search and a higher threshold for the items that are believed to be concealed. Intimate searches may only be authorised in cases where there is a reasonable belief that drugs or potential weapons are concealed in a bodily orifice other than the mouth.

How are intimate searches conducted? PACE Code C states that:

2.A Before the search begins, a police officer or designated detention officer must tell the detainee:

- a) That the authority for carrying out the search has been given;
- b) The grounds for giving the authorisation and for believing that the article cannot be removed without an intimate search.

Further arrangements for intimate searches include (please note these points are abridged in part):

- Detainees will be asked to give appropriate consent to the search and must be warned that if they refuse without 'good cause' their refusal may harm their case if it comes to trial.
- A detainee who does not have legal representation should be reminded of their entitlement to have free legal advice, and this reminder be recorded in the custody record.
- An intimate search may *only* be carried out by a registered medical practitioner or registered nurse, the only exception to this being if an inspector or above considers that this is not practicable in which case the search may be carried out by an officer.
- Officers carrying out intimate searches should only be as a last resort and the authorising officer considers the risk of allowing the item to remain with the detainee outweighs the risk of an officer removing it.
- If the intimate search is carried out by an officer, the reason for deciding that it wasn't practicable for a healthcare professional to undertake the search must be recorded.
- Intimate searches may only take place in a healthcare setting or in police custody.
- When an intimate search is carried out by an officer, the officer must be of the same sex as the detainee. A medical practitioner or nurse need not be of the same sex as the detainee.
- A minimum of two people other than the detainee must be present during the search, and other than any medical professionals or AAs as per the arrangements for children below, all of those in the room where the search is taking place must be of the same sex as the detainee and only those necessary be present.
- The search should be carried out with regard to the dignity, sensitivity and vulnerability of the detainee.

For all intimate searches, a full and detailed record must be made including details of the officer giving authorisation, grounds for authorisation, which parts of the body were searched, those present during the search and any result.

What are the particular arrangements for children?

For children, the seeking and giving of consent for an intimate search must take place in the presence of an AA and must also obtain consent of the parent or guardian. If the child is under 14 then parental consent only is necessary by PACE.

Intimate searches at a police station of a child may only take place in the presence of an AA of the same sex, unless the detainee specifically requests a particular AA of the opposite sex who is readily available.

The search may only take place in the absence of an AA when the child signifies, in the presence of the AA, that they do not want the AA present and the AA agrees. A record should be made of the child's decision and the AA needs to sign the record.

What else should be taken into account?

PACE Code C also contains a series of Notes for Guidance, which will not be repeated here in full however some points to note:

- The Notes contain guidance on authorising officers endeavouring to persuade detainees to hand over items prior to authorising searches.
- The need to review all factors prior to authorising any search.
- That officers who are unsure as to whether to authorise an intimate search by a police officer should seek advice from a superintendent rank or above.
- A form of words which can be used by officers when warning detainees of a search in both English and Welsh.

What can schemes do?

The guidance on strip and intimate searching is particularly relevant for ICVs viewing custody records, either as part of a visit or for those schemes who undertake custody record reviews (CRRs). Whilst an independent custody visitor may see a detainee who expresses concern about a search to which they have been subject, it is more likely that schemes would come across details of searching in the custody record.

Strip and intimate searching are both intrusive procedures, therefore ICVs should be encouraged to feed back to custody staff and scheme managers if there is anything reported to them from detainees, or that they note in records or whilst in the suite, that makes them uneasy or concerned. Equally, where there is good practice in this area, ICVs should be encouraged to report this to their scheme managers/custody staff too.

If an ICV does have a concern from a detainee that their search was inappropriate or undertaken poorly, ICVs should feel comfortable to alert the detainee of their right to complain. ICVs should use the checklist provided to ensure that all procedures have been followed correctly.