

ICVA Response
Proposed amendments to PACE Code H:
strip searches
June 2024



1. Introduction and overall impressions

- 1.1 ICVA is a membership body which leads, supports and represents independent custody visiting schemes in the UK. ICVA also represents England and Wales independent custody visiting at the United Kingdom National Preventive Mechanism (UKNPM) to prevent ill treatment in places of detention.
- 1.2 We welcome this opportunity to comment on the draft amendments to PACE Code H.
- 1.3 Whilst ICVA welcomes any additions to PACE Codes to protect the dignity and respectful treatment of detainees in police custody, we view the proposals as very much a first step, with further amends to PACE being required for all detainees who are subjected to clothing removal in custody for any reason.
- 1.4 Further still, ICVA would recommend that clarification is included in PACE Code H on the use of anti-rip clothing in custody to highlight that clothing should not be removed for welfare purposes in the absence of risk information¹.

2. Terminology

- 2.1 Although not contained in this series of amends, ICVA considers that the opportunity has been missed for a further amendment of all PACE Codes to remove the term 'juvenile' and replace with 'child'².
- 2.2 Referring to those aged 17 and under as children would assist with the avoidance of adultification of child detainees in addition to bringing the PACE Codes in line with definitions and terminology in the UNCRC³.
- 2.3 Exposure of intimate parts, or EIA searches, is a new term in PACE Code H. PACE Code H has previously used the terms strip and intimate search with definitions of what each search constitutes within the Code.
- 2.4 The drafted amends to PACE Code H Annexe A include detail on EIA and children at point 11.
- 2.5 ICVA recommends that a definition of what an EIA is clearer and more prominent in PACE Code H, possibly expanding on point 11A of Annexe A. It is not clear whether an EIA covers all intimate areas. ICVA notes that definitions of what comprises an 'intimate part' vary, and can include the chest or breast area, for example. PACE Code H does not currently give sufficient guidance for this area.

3. Responses to particular amends

- 3.1 Whilst the addition of safeguards for detainees whose clothing is removed for welfare purposes proposed at 4.2A appears to be a positive step, ICVA has previously expressed clear concerns about the practice of removing clothing for

¹ <https://icva.org.uk/wp-content/uploads/2022/12/Joint-Anti-Rip-Pilot-Interim-Evaluation-.pdf>

² https://assets.publishing.service.gov.uk/media/663a35e41c82a7597d4f3214/FOR_CONSULTATION_-_Draft_revised_PACE_Code_2024_C.pdf

³ <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>

welfare purposes in itself. The addition of safeguards does not negate these concerns.

- 3.2 Should a detainee be at risk of harm to themselves, there will, by necessity, need to be arrangements for how the detainee's safety is best managed until such time as an appropriate adult arrives. This brings into question why this approach could not be used to keep the detainee safe throughout their time in custody, rather than the intrusive removal of clothing, which, as reflected in the College of Policing Authorised Professional Practice, could lead to escalation of harming behaviours⁴.
- 3.3 Care should be taken to ensure that there are no unintended consequences due to potential delays to the arrival of an appropriate adult for searches/clothing removal. It would be of concern, for example, if restraints were used until such time as the search/clothing removal took place in the controlled environment of custody, where other, less intrusive methods such as observations could be utilised. The Code amends do not currently offer clarification as to how this time period should be managed.
- 3.4 ICVA welcomes amends to Annexe A 11B of PACE Code H to reflect that any EIP search is likely to be traumatic for a child and that due regard to this trauma should be given in the process and consideration of authorising a search. Detainee dignity is a distinct and important outcome in police custody and care must be taken to avoid potential ill or degrading treatment of detainees as per the Human Rights Act 1998, Article 3⁵.
- 3.5 ICVA supports the amend at Annexe A 12B that appropriate adults of the opposite sex may only be present when they are known to the detainee and, most importantly, that the detainee agrees. Detainee autonomy has been found to be an important outcome in custody⁶, and therefore child detainees being able to exercise an element of choice is a positive addition.
- 3.6 ICVA welcomes the proposed requirement for inspector authorisation of exposure of intimate parts (EIP) searches for children and notification to superintendents when EIP searches of children and vulnerable adults have taken place with no appropriate adult present. It would be ICVA's recommendation that these requirements then trigger a scrutiny and feedback process with a focus not only on justification and proportionality, but also on dignity outcomes for detainees.

⁴ *'If a detainee is believed to be at risk of suicide or self-harm, seizing and exchanging clothing may not remove the risk but may increase the distress caused to the detainee and, therefore, increase the risk of them self-harming. Leaving a detainee in their own clothing can help to normalise their situation'*. <https://www.college.police.uk/app/detention-and-custody/detainee-care/detainee-care>

⁵ <https://www.legislation.gov.uk/ukpga/1998/42/schedule/1/part/1/chapter/2>

⁶ <https://academic.oup.com/bjc/article/60/6/1667/5875850>