

Police searches of people

A review of PACE powers

Chris Bath, November 2022

About the National Appropriate Adult Network

Appropriate adults safeguard the welfare, rights, and effective participation of children and vulnerable adults, whether they are detained or questioned as suspects in criminal or terrorism investigations.

NAAN works to create a fairer justice system for children and vulnerable adults by maximising the effectiveness of the appropriate adult safeguard. It is a registered charity with over 100 member organisations. It was established in 1995 by frontline practitioners, Mind, Mencap and Revolving Doors Agency, to develop and share best practice in the AA role. Today, the charity provides an independent centre of expertise, innovation and infrastructure support, to improve policy, commissioning, provision and public understanding.

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Foreword

This is a timely and needed review. Given the focus on stop and search and in particular strip searching of children, and the case of Child Q, it's important that we review the powers in the different codes. Given NAAN's work the role of appropriate adults is a key focus of the review but the whole breaking down and the examination of the PACE codes is illuminating and helpful.

I was involved in the latter part of the Child Q Serious Case Review in Hackney as a Director of Young People and Families at Hackney CVS and had a sectorial safeguarding role. I am familiar with PACE through advocacy work with young people and being an appropriate adult in police stations and in youth court settings 20 years ago, but even I was surprised by how strip searching of children is lawful in these circumstances. I was not surprised by the lack of clarity.

The issue of discretion is central, and this is where racism and power come into play. Discretionary powers are so dangerous in the hands of an officer who treats black children and young people as suspects and not vulnerable and do not see them as children which is where adultification comes in. There are wider issues about the role of the police in schools and the NPCC Child Centred Policing Framework but what needs to be challenged is the power of discretion and ambiguity of Code A.

In my personal view until there is a complete overhaul of PACE and these codes there must be an immediate cessation of strip searching of children. If we are genuinely concerned about having a child first approach and safeguarding black and racially minoritised children from potentially abusive practices from our police forces, then we must be committed to this process. I hope that NAAN's review feeds into this urgent discussion and that political leadership of whatever hue is motivated to take the necessary action that is needed in these challenging times.

Saqib Deshmukh, Interim Chief Executive, Alliance for Youth Justice

As a police officer, a strip or intimate search of a child or vulnerable person is a last resort for me. If one *is* necessary, I want to do it by the letter. Where that letter is 'blurred' I know my actions could be interpreted differently. I might want to wait for the appropriate adult, yet an officer faced with similar circumstances may deem it too urgent. Our intentions were both correct, but who was right? The answer may differ dependant on the influences of local and national leadership, accountability bodies, communities, and the media. I feel it's a lot of pressure for police officers to carry.

Custody and the street are different environments, but there are inconsistencies and ambiguities in the PACE Codes that it would be helpful to address. This includes impact factors such as the location and personal circumstances such as menstruation. Without a degree of discretion policing would become difficult, even impossible, especially on the street. It is a fine balance. But the clearer and more specific the PACE Codes, the less precarious it feels being a frontline police officer. If I stick to the rules, I can expect to be supported. Engagement with an Inspector prior to the search is helpful, but this still requires the Codes to be clear. Otherwise, we are just transferring the uncertainty and potential criticism, without necessarily reducing the negative impacts.

What is clear is that it matters *how* we do searches. Finding an item does not automatically make a search acceptable. We need to get the basics right. Unless we have solid reasons for every search, which are never based on individual's personal characteristics, everything that follows will be wrong. For strip and intimate searches, we can't remove the trauma but what we should always minimise it. We must treat people with respect and dignity, ensuring appropriate adults are present, and giving them control where possible, such as in who they want present. This will help to reduce the highly traumatic use of force in searches. Applying lots of safeguards to routine, non-intimate searches could be counterproductive. The public should be able to trust the police. Officers who do not carry out their duties correctly should be dealt with quickly and robustly.

Sgt Laura Hornby, NAAN Trustee

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Executive summary

Purpose

- This paper is a contribution to an important debate being led by communities, charities, the Independent Office for Police Conduct (IOPC) and the Children's Commissioner. It considers police powers and safeguards in relation to the searching of people, with emphasis on the searching of children and vulnerable people.
- The motivation was Child Q and similar cases identified by the IOPC. The rationale was that an explanation of powers and safeguards was helpful. 'Vulnerability' needed to be considered beyond children. Wider recognition of recent case law, which has shifted responsibility for conducting some of the most invasive searches from medical professionals to the police, was vital. Analysis, accountability, and change must go beyond individual police officers or teachers, to the underlying framework. Government, Parliament and the public are responsible for defining police powers and safeguards, and the limits of discretion.

Areas of concern

- **Powers and safeguards:** Police search powers are wider than commonly understood. Powers to search people under Code A (stop and search) and Code C/H (custody/terrorism custody) have recently been subject to greater scrutiny. However, they are often not sufficiently understood and some elements, such as the seizure of clothing, are not always considered. Searches of people under Code B (during a premises search), Code D (for identification purposes), Code G (upon arrest), and PACE s.54B (live link bail) are rarely discussed. Conversely, the safeguards associated with police search powers, notably that of the appropriate adult, are applied in much narrower cases than most people are aware.
- **Appropriate adults:** The PACE Codes are complex, difficult to understand, and lack clarity as to which searches require an appropriate adult for children and vulnerable adults. There are different interpretations of the rules, not always reflecting common police interpretations. Most search types do not require the presence of an appropriate adult. Strip searches exposing intimate body parts can take place without one if a police officer considers them to be urgent, where there is risk of serious harm. Children can agree not to have an appropriate adult and may feel pressured to do so; vulnerable adults cannot. It is unclear whether strip searches that do not expose intimate parts require an appropriate adult, and there is no definition of 'intimate parts'. Intimate searches (recently redefined as those involving penetration of a body orifice) do not require an appropriate adult. PACE Code A does not mention appropriate adults and is insufficiently linked to the relevant provisions in Code C. Appropriate adults are not always used in stop and searches which expose intimate body parts of children. Few organised appropriate adult schemes report involvement in stop and searches and those that have say it is rare. The purpose, role and activities of an appropriate adult during searches are not clearly defined within PACE. In some cases, appropriate adults feel uncomfortable due to concerns for privacy and the risk of increasing trauma. It is unclear whether appropriate adults not previously known to a child or vulnerable adult must always be of the same sex, and what the position is for intersex and non-binary people.
- **Parental involvement** Parents are almost non-existent within the PACE search framework. Parents who are unable, unsuitable or do not wish to take on the role of the appropriate adult, effectively are not involved at all. There is no requirement to inform a parent of a child, either in advance or after a search.

- **Intimacy, trauma and consent:** There is no definition of what body parts are intimate, nor of what constitutes exposure of those parts during a search. The recent judgment in *Owens v Chief Constable of Merseyside Police* [2021] EWHC 3119 (QB), means that police are now able and expected to carry out invasive searches involving physical contact with body orifices (e.g. anus, vagina) that previously were categorised as an 'intimate search' and had to be carried out at a medical premises by medical professionals, with the only limitation being no physical penetration. People speak about being strip searched in the same terms as people talk about sexual abuse, as highlighted 16 years ago by the Carlile Inquiry (2006). Police officers have expressed a strong dislike of carrying out strip searches, particularly of children, and this may contribute to their own trauma over time. The only type of search that requires a person's consent is an intimate search for Class A drugs. Even this is sometimes bypassed by treating it as a search for a harmful object (which does not require consent). Even where consent is required it is not always informed, the status of 'voluntary searches' is unclear, and there is a risk of (even unintentional) coercion, with the threat of 'reasonable force' being a feature of search powers.
- **Understanding:** Understanding of rights, search procedures, and safeguards is very limited amongst children, vulnerable people, professionals such as teachers, and the public. People often do not feel they are in a physical, mental or emotional position to be assertive and challenge the police based on facts. Opportunities for legal advice are extremely limited.
- **Location, oversight and recording:** There is a lack of clarity over the best location of searches, in particular for children and vulnerable people. The argument for using schools for strip searches because they are 'safe' spaces, is fatally undermined by the resultant loss of a sense of safety in that place. While Safer School Officer initiatives may aim to improve relationships with children, and ensure there are officers with specialist skills in place, there are strong arguments to the contrary. There is a lack of provision for supervision and authorisation in relation to searches, particularly but not solely in relation to stop and searches of children and vulnerable people. Available data on searches is insufficient in terms of comprehensiveness and quality. Police guidance gives a mixed message on audio/visual recording of searches when comparing stop and search and custody, and people have no say in whether searches are recorded.
- **Purpose and conduct:** The IOPC's position regarding the smell of cannabis as sole grounds for suspicion is not supported by legislation, Codes or Authorised Professional Practice. Strip searching has been used by some police officers as a form of punishment and control.
- **Equality:** Issues surrounding searches (e.g rates, invasiveness, adultification, knowledge of rights, assertiveness, and vulnerability to trauma) are subject to intersectional disadvantage, including both protected characteristics and factors such as social and economic deprivation. Strip searches under stop and search disproportionately affect some people, in particular Black people. The adultification of Black children is a factor, though not one that is universally understood. The likelihood of an appropriate adult being present for a child does not appear to be affected by ethnic disparities. The search framework does not fully reflect national and international legal requirements for a distinct approach for children or meeting the needs of people with a disability. It does not fully recognise the needs of women and girls, for example in relation to biology, society's differential treatment, or the likelihood of prior sexual abuse. Neither does it recognise the particular needs of trans people, including those who are currently planning, undergoing or have completed physical changes to their body, including genitalia; and in relation the increased likelihood of prior sexual abuse.

Ideas for change

- **Strategic review:** It should be accepted that the gap between public expectation and the existing framework requires strategic review. A revised framework of powers and safeguards must be understood and followed. It must meet the needs of all members of the public, enable effective participation and exercise of rights, and not be applied disproportionately.
- **Alternatives:** Securing support for reductions in invasive searching will require the recognition of the valid objectives of police, and the provision of clear and effective alternative methods and expectations to achieve those objectives. Safeguarding may provide a common language and framework upon which police and advocates for children and vulnerable people can build alternatives. Investment in police officer skills and approaches could be combined with a range of technology solutions including wands, body scanners and low dose CT scans. Increasing the role of medical professionals (subject to consent) may reduce risks both for people being searched and police.
- **Appropriate adults and parents:** Exceptions to the requirement for an appropriate adult should be clarified and tightened. It should be made clear that appropriate adults are required for all strip searches of children and vulnerable adults. The purpose and expectations of the appropriate adult should be explicit, taking into account concerns about privacy, dignity and trauma. Provisions regarding appropriate adults of a different sex should be clarified, along with the potential for it to be agreed that no appropriate adult will be present. It should be clear that the seizure of clothing must be treated as a strip search in relation to the presence of an appropriate adult. Sufficient resources should be available to police to use constant watches while awaiting the arrival of an appropriate adult. Parents should be notified of invasive searches, and unless there is an immediate and significant risk of serious harm to the child or others (i.e. to save life and limb) this should be in advance of the search. Any expansion of the involvement of organised appropriate adult provision, including better compliance by police with existing rules, will require sufficient and sustainable resourcing.
- **Intimacy, trauma and consent:** Legislation is required to maintain the longstanding and agreed line between strip searches and intimate searches; physical contact with an intimate body part should be an intimate search and conducted in medical premises. The meaning of 'intimate' body parts and 'orifices' should be defined. Aftercare should be provided outside of policing. The safeguards for a search of body parts that are not considered intimate, and may already be exposed without removing clothing (such as the mouth) should be explicit. The role of consent in searches should be reviewed. People should have access to legal advice where possible, and access to legal information in all cases.
- **Understanding and use of rights:** The education system should ensure that both children and teachers have a sound understanding of how laws are enforced via the use of searches of people, including rights, processes and safeguards.
- **Location:** Searches should take place in a place that will minimise harm or distress, with guidance supporting officer decision-making. For children, the location should be child-friendly, and subject to consultation with a parent. Schools should either be prohibited or there should be a presumption against them, unless there are exceptional circumstances and the principal, a parent and the child agree it is in their best interests.

- **Oversight and recording:** Invasive searches under stop and search should require consultation with a supervisor, and the recording and sharing of information with other services. The potential to consult local youth justice and children's services prior to invasive searches of children should be considered. Standardised data on all searches should be shared nationally, including in relation to equalities, children and vulnerabilities. People should have a say in whether their search is audio/visually recorded.
- **Purpose and conduct:** Clarify in Code A the position with regard to single factors (e.g. smell of cannabis) as a reasonable grounds for suspicion. Clarify for all searches, whether there must be two persons present for any strip search, or just those exposing intimate parts.
- **Equality:** Directly involve people affected by inequality, within and beyond the protected characteristics, in developing an equitable approach to the searching of people. Develop a discrete approach for children, focused on safeguarding, best interests and the avoidance of invasive searches. Reference to 'juveniles' should be replaced with 'children' throughout the PACE Act and Codes (in line with PACE Code D and the Terrorism Act 2000). Ensure compliance with the UN Convention on the Rights of Disabled People. Update PACE to reflect needs related to sex and gender. Deliver the recommendations of the IOPC National Stop and Search learning report (April 2022) and the NPCC/CoP Police Race Action Plan.

Introduction

Purpose

1. This paper considers police powers and safeguards in relation to the searching of people.
2. This is a complex area with many facets, and important issues will no doubt be omitted. It is neither legal nor academic, with the content representing the author's best understanding and honest interpretation. It is intended purely to inform further analysis and discussion.

Child Q

3. In 2020, a 15-year-old Black girl (referred to as Child Q) was subjected to a 'strip search' which exposed intimate parts of her body. While at school, her teachers "*suspected that she might be carrying drugs*" because "*they believed Child Q was smelling strongly of cannabis*", but having questioned her and searched her bag, blazer, scarf, and shoes, they found nothing.¹ They called 101 on the advice of their "Safer Schools Police Officer", and two male and two female police officers from the Metropolitan Police Service (MPS) attended.
4. Child Q, who was known to be menstruating, was removed from a mock exam and the two female police officers conducted a 'more thorough search which exposes intimate body parts' (MTIP) under PACE Code A (stop and search) powers. This included being "*made to bend over spread her legs, [and] use her hands to spread her buttocks cheek whilst coughing*"². This took place in the school medical room without an appropriate adult in the room - the teachers stood outside, and neither her parents, nor an organised appropriate adult, were contacted³. After the search, she was not allowed to go to the bathroom to replace her sanitary pad before re-entering the mock exam. Just as Child Q had said would be the case when she was questioned, nothing was found.
5. The case came to public attention in March 2022, with the publication of the Local Child Safeguarding Practice Review⁴. There was a high level of media, community and wider public interest, in particular regarding the lack of respect for basic dignity shown to Child Q by police officers and school staff, and the finding that racism was likely to have been an influencing factor in the decision to undertake the search⁵. The Independent Office for Police Conduct (IOPC) opened an investigation, and in June 2022 escalated this to a gross misconduct investigation⁶.

Wider concerns

6. Child Q's experience triggered wider concerns. The Children's Commissioner immediately called on the MPS to undertake a "*force-wide response to this review that seeks to address the culture which enabled this to happen*" (emphasis added)⁷.
7. By July 2022, there was growing recognition of the wider implications of what had happened to Child Q. The IOPC raised concerns that such cases were not being voluntarily referred to them by the MPS as expected, and that the issues appeared to encompass not only stop and search, but strip searches in police custody. As a result, the IOPC received 11 referrals from the MPS relating to separate incidents between December 2019 and May 2022. All involved children aged 14 to 17, who were strip-searched by officers in or outside of custody⁸. The IOPC announced they would investigate two of these,⁹ with additional investigations being undertaken by the MPS professional standards department.

8. In August, the Children's Commissioner published an analysis of MPS data on the use of Code A MTIP (stop and search strip search exposing intimate parts) on children¹⁰. The report indicated concerns regarding high prevalence (650 in two years), absence of appropriate adults (not recorded as present in 23% of cases), ethnic disproportionality (over 50% were Black), outcomes (over 50% led to no further action), location (unknown in 22% of cases), and data quality.
9. The initial focus was on the MPS due both to location of the Child Q case, and the large proportion of stop and searches carried out by the force. Of the 697,405 stop and searches of people (i.e. excluding vehicle searches) in England and Wales between April 2020 and March 2021, 44% (and 77% of those of black people) were conducted by the MPS. This is not only due to the large population, but the greater propensity of the force to use the power. There were 38.1 stop and searches for every 1,000 people in London, the highest rate out of all police force areas¹¹. In the MPS, strip search rates in custody increased from 16.5% to 23.2% of detainees between 2017/18 and 2020/21, and they have increased more rapidly for children than adults.¹²
10. However, the IOPC wrote to National Police Chiefs' Council (NPCC) about a potential national issue saying, *"What we do not have sight of, is whether this is a wider issue than just in the MPS. In the past we have often seen something that may arise in the largest force, then raises questions and other forces also identify cases"*.¹³
11. In October, the Children's Commissioner widened her enquiries, writing to all police forces asking for the numbers of strip-searches carried out on children between 2018 and July 2022 under stop and search powers.¹⁴
12. In November, the Daily Mail reported on (Code A MTS) strip searches of children:¹⁵
 - *"At least 13,255 children have been strip-searched in the last five years [and the] real figure is likely to be far higher, as just 28 of the 43 forces across England and Wales provided data to Freedom of Information requests"*
 - Rates *"almost doubled between 2017 and 2020 across police forces outside London"*
 - *"In 80 per cent of cases, nothing illegal was found"*
 - *"More than a fifth of the children searched were aged 15 or under, with at least 136 aged under 13 – though most forces did not provide the ages of the suspects"*
 - Of the *"just three [police forces that] provided figures on race...black children [accounted] for 48 per cent of those searched"*.
13. On the MPS, the Daily Mail report contrasted the 650 (Code A MTIP) strip searches that exposed intimate parts between 2018 and 2020 reported to the Children's Commissioner, and the 4,922 (Code A MTS) strip searches of children conducted in the same period. Of the MPS' (Code A MTIP) strip searches since 2016, 58% were of black children.
14. According to [national statistics](#) from the Home Office, the use of stop and search powers by police in England and Wales is increasing. In the year ending March 2021, 99% of all stop and searches were under s1 of PACE. At a total of 695,009, these were 24% higher than the previous year, while in contrast, overall arrest figures were down 5%.

Accountability

Individual

15. Many people, both within and outside the policing world, have asked how such cases could possibly have happened. Part of the answer comes from the scrutiny and accountability of individuals. Police powers, such as strip searches, include both the legal powers themselves and the significant *discretion* police officers have as to whom, when, and how they are applied. The application of discretion can support or undermine fairness, dignity and ultimately police legitimacy. Individual officers carry an individual moral and legal responsibility to use discretion in a fair way.

“All the people that allowed this to happen need to be held responsible. I was held responsible for a smell.”

Child Q

16. Police officers hold immense power, and those who abuse police powers must be held to account on an individual basis. And, as the Child Q case demonstrates, the police are not the only actors that can influence outcomes.

Organisational

17. Individual discretion is influenced by the leadership, selection, training, guidance, policies and procedures of each police force. In turn, these influences are shaped by national policing leadership, guidance^a and cultures. And once again, the police are not the only actors that can influence outcomes. Scrutiny and accountability must reach outside policing into other organisations, whether it be education, health or social services.

Systemic

18. Scrutiny and accountability must be based on clear and appropriate rules and powers. Therefore, it is important to consider the extent to which the system of police search powers prohibits, enables, encourages, or expects police to take actions which the public find unacceptable. Otherwise, we risk focusing on the idea of ‘bad apples’ instead of interrogating the underlying system and rules. Individual frontline officers don’t have power over those rules. Personal accountability should not amount to scapegoating, and therefore avoiding effective change.
19. If the public give police powers (via Government and Parliament), it can be expected that the police will use them. There is an expectation that they will be interpreted ‘reasonably’ and used ‘properly’. However, police may also feel an expectation (a pressure even) to use powers to the fullest. If they do not, and something ‘goes wrong’ they may fear being held accountable for not doing so, perhaps more so than being held accountable for using them. In a sense, when greater powers and discretion are given to police, it shifts responsibility (and therefore risk) from the people, Parliament and Government) to the police. Yet, *“the question of strip-searches has been notably absent from political and legal discussions”*.¹⁶

^a For example, the College of Policing’s Authorised Professional Practice.

“I need to know that the people who have done this to me can’t do it to anyone else ever again. In fact so NO ONE else can do this to any other child in their care.”

Child Q¹⁷

20. Police powers and discretion are not a one-way street, with police always wanting more. Sometimes police officers value clear limits to their powers and discretion – not least because this provides shared accountability.
21. In the words of one police officer, “Police discretion is complicated...The more accountability, the less discretion they effectively have, and the closer they will stick to the letter of policies and laws (if they know them). At least in my experience”¹⁸.
22. Whatever one’s view on policing, stop and search, and strip searching, the concerns outlined in this paper are damaging to police legitimacy, and therefore effectiveness. It is in the interests of everyone who seeks improvement, to consider the relative impact of individual frontline officer practice, police force leadership and culture, but also the underlying rules and powers by which police operate.

Clarity and understanding

23. In practice, only a small number of people are directly involved in determining police powers. The public is not proactively educated on the decisions that have been made on their behalf. It is critical that they are not unintentionally deceived by overly broad statements about powers or safeguards, nor by the inclusion of safeguards in principle that are not available or applied in practice. For example, as a charity, NAAN’s particular interest is in relation to children (under 18 years), vulnerable people (as defined by PACE Code C 1.13(d)), and the appropriate adult safeguard. The lack of an appropriate adult, both in the case of Child Q and others, has been a focus of much of the public discussion. There has been evident confusion amongst the media, politicians, and the public at large, about the current rules. This is not fair on the police, the public or the individual.
24. The goal of understanding police powers guides us towards the principle of simplicity – so far as it can be achieved in complex matters. Understanding of police powers and safeguards is important not only for the people directly affected, but for their communities, the general public, politicians, those investigating police and the police themselves.

Scope for change

25. There has long been a wider debate about the effectiveness of stop and search and its existence as a policing tool, something this paper does not address. The Child Q case has also led to questions about whether we should be strip searching children at all.

“Far too many children have had their rights violated by police during strip-searches. The only way to prevent these abuses of power is to roll back the powers of the police, and end the use of strip search.”

Jodie Beck, Liberty¹⁹

“I’m really concerned about whether we should be strip searching at all.”

Dame Rachel De Souza, Children’s Commissioner for England²⁰

26. The Children’s Commissioner has also raised particular concerns in relation to children with special educational needs and autistic children.²¹ The issue of individual needs (beyond the general issue of age) is of critical importance. Analysis should also encompass those aged 18 and over who may be a ‘vulnerable person’ as defined by PACE Code C.
27. We encourage an open, evidence-based review of powers relating to the searching of people, and the opportunity for positive change that would bring. There appears to be some Government interest in considering changes to the Police and Criminal Evidence Act 1984 (PACE) Codes of Practice in response to concerns about strip searching. While it has not defined the scope of potential changes, there has been no indication that the power to strip search children or vulnerable people might be removed. The scope and scale of change in relation to searches of people is to be determined.
28. In order to develop options for such change, it is important to ensure that there is a clear and shared understanding of the current framework for searching persons under PACE. Therefore, we need to be clear about:
- what powers we want police to have
 - the prescribed circumstances in which we would be happy for the powers to be used
 - the proscribed circumstances in which we would not be happy for the powers to be used
 - what safeguards are required (that we are committed to making available when required).
29. In order to develop a plan for change, this needs to be compared to the current rules. As with all PACE matters, interpretation of the rules is key. It is therefore important that we ensure we first have a shared understanding of the current (complex) framework, as a foundation for analysis.
30. Furthermore, it follows that, even with the ‘right’ rules, it is necessary to ensure that:
- they are understandable by police & public
 - they are understood by police & public
 - they are followed
 - they are not applied disproportionately or otherwise unfairly to people with certain characteristics, and in a manner that promotes welfare.

Search types

Code A (stop and search)

31. The police have a wide range of powers to search people for different items in different places. In most circumstances, stop and search can only legally take place if police have 'reasonable suspicion'. This means that they²²:
- have formed a genuine suspicion in their own mind that they will find the object for which the search power being exercised allows them to search; and
 - have an objective basis for that suspicion based on facts, information and/or intelligence relevant to the likelihood that the object in question will be found.
32. Code A applies to most stop and search powers, including but not limited to: Stolen and prohibited articles (Police and Criminal Evidence Act 1984, s1); Controlled drugs (Misuse of Drugs Act 1971, s23); Firearms (Firearms Act 1968, s47); Evidence that a person is a terrorist (Terrorism Act 2000, s43)
33. Code A does not apply to stop and search under the (a) Aviation Security Act 1982 s27(2); (b) the Police and Criminal Evidence Act 1984 s6(1) (statutory undertakers); Terrorism Act 2000 Schedule 7 (ports and borders); or Terrorism Act 2000 47A (specified places).^b
34. However, reasonable suspicion is not always required, for example:
- If an officer above the rank of inspector has authorised powers to stop and search in anticipation of violence in a specific area under Criminal Justice and Public Order Act 1994 s60, an officer "*may stop any person or vehicle and make any search he thinks fit whether or not he has any grounds for suspecting that the person or vehicle is carrying weapons or articles of that kind*".^c
 - There is no requirement for reasonable suspicion when searching a person under the Terrorism Prevention and Investigation Measures Act 2011 Schedule 5, when serving a notice, under a search warrant for compliance purposes, or for public safety purposes.
35. PACE Code A defines three levels of search under stop and search.²³ In all cases:
- The thoroughness and extent of a search must depend on what is suspected of being carried, and by whom²⁴
 - The intrusion on the liberty of the person stopped or searched must be brief²⁵
 - The search must be carried out with courtesy, consideration, and respect. Every reasonable effort must be made to minimise embarrassment²⁶
 - Cooperation must be sought, and force used only as a last resort²⁷.

^b See [Terrorism Act 2000](#) below for s43, 47A, and Schedule 7 powers. This paper does not further consider the Aviation Security Act 1982 or PACE s6(1) powers.

^c The Independent Office for Police Conduct is currently investigating a [super-complaint lodged by the Criminal Justice Alliance](#) regarding the harms caused by 'suspicion-less' stop and searches an inadequate scrutiny of stop and search powers. The complaint recommended full repeal of s60 or implementation of 22 safeguards.

Search or JOG (Code A 3.5)

36. Involves the removal of only jacket, outer coat, and gloves (JOG)²⁸. If reasonably necessary, putting hands inside shoes, socks, pockets, collars and (if there are no religious sensitivities) hair or headgear.²⁹ Under the Criminal Justice and Public Order Act 1994 s60AA it can involve the removal of another item that is concealing identity such as headgear.

37. In terms of safeguards:

- Consent is not required, and reasonable force can be used if necessary³⁰
- There is no requirement for the officer to be the same sex
- There is no requirement for a parent to be notified for a child
- There is no requirement for an appropriate adult for a child or a vulnerable person.^d

More thorough search or “MTS” (Code A 3.6)

38. Involves the involuntary removal of more than a jacket, outer coat, and gloves (e.g. t-shirt). Also effectively includes removal of items where there are religious sensitivities³¹, that are not conducted according to a standard search.

39. In terms of safeguards:

- Conducted out of public view, including in a police van
- The police officer must be the same sex (unless only headgear/footwear removed).
- There is no requirement for a parent to be notified for a child
- There is no requirement for an appropriate adult for a child or a vulnerable person.^e
- Consent is not required, and reasonable force can be used if necessary.³²

More thorough search that exposes intimate parts or “MTIP” (Code A 3.7)

40. Involves the exposure of intimate parts and must be conducted in accordance with Code C Annex A paragraph 11 (strip searches). An intimate search (see [Code C](#) below) may not be authorised or carried out under any stop and search powers.

41. In terms of safeguards:

- Must not be conducted as a routine extension of a less thorough search, simply because nothing is found in the course of the initial search.
- Conducted out of public view, but not in a police vehicle
- The police officer must be the same sex
- There is no requirement for a child’s parent to be notified.
- In urgent cases (risk of serious harm), no appropriate adult is required. Otherwise, an appropriate adult is required, (unless the child and AA agree, and this is recorded and signed) and must be of the same sex (unless [specifically requested](#)).³³
- If not urgent, a minimum of two people must be present (AA included) and not more than two (AA not included) unless there are exceptional circumstances.³⁴
- Consent is not required, and reasonable force can be used if necessary.³⁵

^d This is one interpretation. See [Appropriate adult involvement: Intrusiveness](#)

^e This is one interpretation. See [Appropriate adult involvement: Intrusiveness](#)

Code B (searches during a premises search)

42. PACE Code B covers searches of premises by police officers and the seizure of property found by police officers on persons or premises. Depending on the powers being exercised, this may also include the searching of people³⁶. For example:

- Under the Criminal Justice Act 1988 Act s139A, if an officer has reasonable grounds for *believing* that the offence of having an article with blade or point (or offensive weapon) on school premises is being, or has been, committed, they may search any person on the premises for those items.
- However, people can only be searched under a warrant issued under the Misuse of Drugs Act 1971, section 23(3) to search premises for drugs or documents if the warrant specifically authorises the search of persons on the premises.
- Some terrorism provisions authorise the search of persons during a premises search^f.

43. Code B paragraph 2.4 states that “*A person who has not been arrested but is searched during a search of premises should be searched in accordance with Code A*”. If the search involves exposure of intimate parts of the body, it must be conducted in accordance with the requirements of paragraph 11 of Annex A to Code C.

^f For example, paragraphs 1, 2, 11 and 15 of Schedule 5 to the Terrorism Act 2000 and section 52 of the Anti-terrorism, Crime and Security Act 2001.

Code C (searches during detention and questioning)

44. There are three levels of search in police custody. However, Code C Annex A 11I distinguishes between strip searches that exposes intimate body parts and those that do not (treated separately here). Police can also strip a person without searching them.

Search (PACE s54):

45. Involves the removal of outer clothing, including shoes and socks.
46. Used to ascertain what a person has when detained at station, or to find and remove a prohibited article (may use for harm, damage, interference with evidence, assist escape, or that are evidence).
47. In terms of safeguards:
- Consent is not required, and reasonable force can be used if necessary.
 - Must be carried out by an officer of the same sex
 - There is no requirement for a parent to be notified for a child
 - There is no requirement for an appropriate adult for a child or a vulnerable person.^g

Strip search not exposing intimate body parts (PACE s54 / Code C Annex A (B)):

48. Involves the removal of more than outer clothing, including shoes and socks.
49. Used to find and remove an article which a person would not be allowed to keep.
50. In terms of safeguards:
- May take place only if the custody officer reasonably considers:
 - it necessary to remove an article they would not be allowed to keep; and
 - the detainee might have concealed such an article.
 - May not be done routinely if there is no reason to consider articles are concealed
 - Must be conducted in accordance with Code C Annex A 11: by an officer of the same sex; where it cannot be seen by people who do not need to be present, nor or of the opposite sex (except an appropriate adult); with proper regard to dignity, sensitivity and vulnerability including health, hygiene and welfare; as quickly as possible (allowed to dress as soon as complete); and with every reasonable effort to secure co-operation, maintain dignity and minimise embarrassment (not normally be required to remove all their clothes at the same time).
 - Consent is not required, and reasonable force can be used if necessary.
 - There is no requirement for a parent to be notified for a child.
 - There is no requirement for an appropriate adult to be present for either a child or a vulnerable person in urgent cases (risk of serious harm).
 - Otherwise, an appropriate adult is required^h, (unless child and AA agree otherwise) and must be same sex (unless they are an AA specifically requested by the person).

^g This is NAAN's current interpretation. See [Appropriate adult involvement: Intrusiveness](#)

^h This is NAAN's current interpretation. See [Appropriate adult involvement: Intrusiveness](#)

Strip search exposing intimate body parts (PACE s54 / Code C Annex A (B)):

51. Involves the removal of more than outer clothing, including shoes and socks, and the exposure of intimate parts. A person can be required to hold their arms in the air or stand with their legs apart and bend forward so a visual examination may be made of the genital and anal areas.ⁱ While Code C states that no physical contact can be made with any 'body orifice', the Courts have ruled that physical contact can be made as long as there is no 'physical intrusion' into a body orifice.³⁷ This means police can physically manipulate intimate body parts and ask the person to do so themselvesⁱ.
52. Used to find and remove an article which a person would not be allowed to keep.
53. In terms of safeguards:
 - May take place only if the custody officer reasonably considers:
 - it necessary to remove an article they would not be allowed to keep; and
 - the detainee might have concealed such an article.
 - May not be routinely carried out if there is no reason to consider that articles are concealed
 - Must be conducted in accordance with Code C Annex A 11: by an officer of the same sex; where it cannot be seen by people who do not need to be present, nor or of the opposite sex (except an appropriate adult as below); with proper regard to dignity, sensitivity and vulnerability including health, hygiene and welfare; as quickly as possible (allowed to dress as soon as complete); and with every reasonable effort to secure co-operation, maintain dignity and minimise embarrassment (not normally be required to remove all their clothes at the same time).
 - Unless urgent (risk of serious harm), a minimum of two people must be present (including the appropriate adult where present) and, unless there are exceptional circumstances, not more than two people present (excluding the appropriate adult).
 - Consent is not required, and reasonable force can be used if necessary.
 - There is no requirement for a parent to be notified for a child.
 - There is no requirement for an appropriate adult to be present for either a child or a vulnerable person in urgent cases (risk of serious harm).
 - Otherwise, an appropriate adult is required, (unless child and AA agree otherwise) and must be same sex (unless they are an AA specifically requested by the person).

Intimate search (PACE s55 / Code C Annex A (A))

54. Code C states that this involves a physical *examination* of a body orifice other than the mouth³⁸. However, in 2021 the Courts have ruled that unless such a search involves a physical *intrusion* into a body orifice it is a strip search.³⁹
55. Used to find anything they could and might use to cause physical injury to themselves or others; or a Class A drug which they intended to supply to another or to export.

ⁱ College of Policing Authorised Professional Practice on [Control and Restraint](#) states that people should not be asked to squat during a strip search. However, this is not reflected in Code C.

ⁱ See [The line between a search of intimate parts and an intimate search](#)

56. In terms of safeguards:

- Must be authorised by an officer of inspector rank or above, who has reasonable grounds for believing the items/drugs are concealed and this is the only way to retrieve them.
- Drug searches require written consent, can only be carried out by medical professionals in a medical premises, and force cannot be used. AA required for consent but not search.
- Injurious item searches don't require consent, can be carried out at a police station, and by police (who can use reasonable force) as a last resort. AA is required, (unless a child and AA agree) and must same sex (unless they are an AA specifically requested by the person).

Seizing of clothes (PACE s54 / Code C 4)

57. Although not technically a strip *search*, in police custody a person's clothes can be seized for a range of reasons, including what is sometimes referred to as 'welfare purposes'.

58. In terms of safeguards:

- The custody officer must have reasonable grounds for believing that they may be evidence relating to an offence or believes the person may use them (i) to cause physical injury to himself or any other person; (ii) to damage property; (iii) to interfere with evidence; or (iv) to assist him to escape⁴⁰.
- Must be conducted in accordance with Code C Annex A 11: by an officer of the same sex; where it cannot be seen by people who do not need to be present, nor or of the opposite sex (except an appropriate adult as below); with proper regard to dignity, sensitivity and vulnerability including health, hygiene and welfare; as quickly as possible (allowed to dress as soon as complete); and with every reasonable effort to secure co-operation, maintain dignity and minimise embarrassment (not normally be required to remove all their clothes at the same time)^k.
- Consent is not required, and reasonable force can be used if necessary.
- There is no requirement for a parent to be notified for a child
- There is no requirement for an appropriate adult to be present for either a child or a vulnerable person in urgent cases (risk of serious harm).
- Otherwise, an appropriate adult is required^l, (unless child and AA agree otherwise) and must be same sex (unless they are an AA specifically requested by the person).
- If intimate body parts are exposed: a minimum of two people must be present (including the appropriate adult where present) unless urgent (risk of serious harm); and unless there are exceptional circumstances, not more than two people present (excluding the appropriate adult).

^k This is not specified in the PACE Act or Codes. However, it features in the judgment in *PD v Chief Constable of Merseyside Police* [2015] EWCA Civ 114.

^l This is NAAN's interpretation. However, the College of Policing's APP interprets Code C as not requiring an appropriate adult for a strip search unless intimate body parts are exposed. See [Appropriate adult involvement](#).

Code D (searches for identification)

Searches and examination to ascertain identity (PACE s54A / Code D 5)

59. Police can search a person who is at a police station to help identify who they are, or whether they have marks or injuries that help identify them as involved in an offence.

60. In terms of safeguards:

- Can be done with the person's consent or with an Inspector's authorisation.
- The officer must be the same sex.
- Reasonable force may be used if the person is detained at the police station. Force may *not* be used if they are present voluntarily.
- There is no requirement for parental notification.
- It is unclear whether appropriate adults are required for all searches, strip searches or strip searches that expose intimate parts. See [Appropriate adult involvement: Intrusiveness](#).
- Intimate searches explicitly cannot be carried out under this power.

Code G (search upon arrest)

Search upon arrest (PACE s32 / Code G)

61. If an officer suspects a person's involvement or attempted involvement in the commission of a criminal offence, and has reasonable grounds for believing that the person's arrest is necessary, the officer can arrest a person. One of these possible grounds is to allow the prompt and effective investigation of the offence or of the conduct of the person in question, such as when the officer is considering arrest and it is necessary to search the person to obtain evidence⁴¹. If a police officer lawfully arrests a person elsewhere than a police station, they have access to additional search powers^m:

- If they have reasonable grounds for believing a person may present a danger to themselves or others, they can search for and seize anything which they have reasonable grounds for believing the person may use to cause physical injury.
- If they have reasonable grounds for believing that the person may have anything which (a) they might use to assist the person to escape custody, or (b) might be evidence, they can search the person. They can seize such items unless they are subject to legal privilege.

^m While this paper does not cover searches under the Mental Health Act 1983, the APP on [Searching Mental Health Act detainees](#) indicates officers can either use PACE s32, or specific powers to conduct "protective searches" of people detained under MHA 1985 s135 and s136, under s136C as introduced in 2017 by the [Policing and Crime Act 2017 s83](#). Also see the [Mental Health Act 1983: Code of Practice](#) 8.29-8.46

62. In terms of safeguards:

- If the search needs to go beyond the removal of an outer coat, jacket or gloves, it cannot be done in public.⁴²
- There is no limit to the search extent for items that may cause injury. Otherwise, it is limited “to the extent that is reasonably required” for the purpose of discovering the things.
- PACE Code G covers the statutory powers of arrest but not the conduct of these searches. There are no explicit requirements regarding the sex of the police officer, parental notification, appropriate adults or location. There is no reference to conducting searches in line with Code A or Code C Annex A.
- The detention and custody APP states that reasonable force may be used, encourages consideration of a search before placing a person in a vehicle, and suggests that in large-scale public order situations it may be safer to conduct the search away from the incident.

63. Following the arrest and search of a person, the police can release them. They must be taken to a police station as soon as is practicable after arrest (PACE s.30 (1A)), but police can ‘de-arrest’ or release them before arriving at a police station (PACE s.30 (7) and s.30A (1)).

Code H (terrorism detention and questioning)

Searches during terrorism detention and questioning (Terrorism Act 2000 s41⁴³ / PACE Code H)

64. The search powers and safeguards in PACE Code H mirror those of [Code C](#) above.

Live link bail

Searches of persons answering to live link bail (PACE s54B)

65. If a person is at a police station answering to live link bail, the police can search them and any article in their possession.

66. The police can seize any item they reasonably believe may (a) jeopardise the maintenance of order in the station; (b) put the safety of any person in the station at risk; or (c) be evidence.

67. In terms of safeguards:

- The officer must be the same sex.
- There are no references to parental notification
- There are no references to appropriate adults.
- Intimate searches explicitly cannot be carried out under this power.

Terrorism Act 2000

Searches during terrorism detention and questioning (Terrorism Act 2000 s41⁴⁴ / PACE Code H)

68. See PACE [Code H](#) above.

Searches of persons suspected to be a terrorist (Terrorism Act 2000 s43⁴⁵ / Code of Practice⁴⁶) ⁿ

69. The equivalent of a [Code A](#) stop and search with a specific [code of practice](#).

70. Similarly to s60 (see [Code A](#) above), under the Terrorism Act 2000 s47A⁴⁷ and Schedule 6B⁴⁸ (searches in specified areas or places) the police can stop and search without reasonable grounds in a specific area. This must be authorised by an officer of at least at the rank of Assistant Chief Constable based on a reasonable suspicion an act of terrorism will take place, only when considered necessary.

71. Unlike Code A, a basic (JOG) search an officer of the same sex should carry out the search if they are readily available.^o

Searches under port and border controls (Schedule 7 Terrorism Act 2000⁴⁹ / Code of Practice⁵⁰)

72. A police, immigration or customs officer may stop, question, search and detain any passing through the UK border, for up to 6 hours, for the purpose of determining whether they appear to be someone who is, or has been, involved in the commission, preparation or instigation of terrorism. They are also able to use other powers to search.

73. Unlike PACE, there is a statutory definition of a strip search which is, *“a search which is not an intimate search but involves the removal of an article of clothing which (a) is being worn wholly or partly on the trunk, and (b) is being so worn either next to the skin or next to an article of underwear”*.⁵¹ This is different to the definitions in Code A and Code C. It is also different to the Schedule 7 code of practice which states, *“A strip search is a search involving the removal of more than outer clothing”*.

74. For a strip search: the person must be detained, there must be reasonable grounds for suspicion and authorisation from a senior officer is not directly involved. Without making reference to PACE Code C, the safeguards broadly mirror those in Annex A, except that:

- It refers to a “responsible adult” in place of an “appropriate adult”
- It refers to “children” rather than “juveniles”
- A child and responsible adult can agree that a different responsible adult will attend
- There is a different [definition of a vulnerable person](#).

75. Intimate searches explicitly cannot be carried out under this power.

ⁿ The use of the s43 powers makes up a small part of overall stop and search. For example, in the year ending 30 June 2022, 396 persons were stopped and searched by the Metropolitan Police Service under s.43 of TACT 2000. See [Operation of police powers under the Terrorism Act 2000 and subsequent legislation: Arrests, outcomes, and stop and search, Great Britain, quarterly update to June 2022](#), Home Office (2022)

^o As enacted, section 43(3) required all s43 searches to be conducted by someone of the same sex, irrespective of the invasiveness. However, this was repealed by the [Protection of Freedoms Act 2012 s60\(1\)](#).

Areas of concern

Alternatives to strip and intimate searches

"I'm really concerned about whether we should be strip searching at all."

Dame Rachel De Souza, Children's Commissioner for England⁵²

76. Child Q's mother told the safeguarding inquiry, *"...the incident that happened (was) treated not as a safeguarding issue. (It was) treated as a criminal matter."*⁵³
77. The public will expect police officers to take seriously their responsibility to keep the public, detained people, themselves and colleagues safe. Police officers have indicated that, as part of this work, they do not look forward to conducting strip searches, especially of children and vulnerable adults. Effective alternatives are therefore logically preferable.

"Most of us have experience of people in custody being quite determined to harm themselves or the police officers who have arrested or detained them"

Mental Health adults.

"I'll tell you now, most police officers I've worked with hated... I hated doing strip searches. I didn't like doing them at all. It's not something you want to do. You don't choose to go to work one day and [say] 'I'm going to find somebody to strip search today'. Cus it's not an enjoyable experience for anybody."

Graham Wettone, author and policing commentator⁵⁵

78. The Carlile Inquiry (2006) considered the forcible strip searching of children in prisons, secure training centres and secure children's homes. In its report the inquiry, *"appreciates that some system of making sure that young people do not bring dangerous articles or illegal drugs into an institution is essential"* and asked *"whether strip searching was the only method of achieving this"* and *"how much force or coercion was being applied; and what were the effects of the policies and practices"*. The report found that, *"The Inquiry was told by some establishments that when the children arrived they were taken straight to a small lounge to talk with one member of staff about what was going to happen. There was no time limit for this. There was a shower room attached to the lounge and when the child was ready, he or she was asked to go into the bathroom alone and take off their outer clothes leaving their underwear on. There were dressing gowns in the bathroom. They were given a pat down search by a staff member of the same gender and a wand search for metal. Their clothes were searched. They can put their own clothes back on, or if they were dirty, new clothes were provided"*⁵⁶.

79. The Carlile Inquiry report also stated that, *“The manager told the Inquiry that if a child refused to be searched, the staff would just sit it out until the child consented. The longest time he could remember was nine hours. No child was ever coerced”*. Staff from establishments using alternatives *“told the Inquiry that they felt there was ‘no safety for a child if you have to strip search.’ They emphasised that they would feel uncomfortable having to strip-search children. They felt there was ‘absolutely no reason to strip search.’ One member of staff said they would refuse to do it and would leave their job if the management insisted on a practice of strip searching”*. The inquiry concluded, *“Strip searching is not necessary for good order and safety”*⁵⁶.
80. Police custody is a different context to prisons, secure training centres and secure children’s homes. Police would likely highlight the PACE clock detention limits (and in the case of a child the legal need to minimise detention) would impact on how long they could “sit it out” in response to a refusal to consent.² There is a wider question about whether simply *waiting* for a child to consent to a search prevents a strip search from being coercive, because it is clear there is ultimately no choice. However, avoiding force would be positive.
81. Constant observation is used in other areas of the care of detained people in police custody, for example in response to clinical direction⁶⁷. In the case of children and vulnerable people, constant observation would allow for the arrival of an appropriate adult, and ideally a trusted person such as a parent or partner. The main objection to this approach appears to be that the system does not have sufficient human resources to deliver it. At a tactical level this would be a fair objection from a frontline police officer. However, if the principle is accepted as good, it should be recognised that it is a strategic choice not to provide sufficient police staffing to enable police to act in the best interests of children and vulnerable people.
82. After overcoming concerns about the ineffectiveness of alternatives to strip searches, mandatory strip searching in young offender institutions ended in 2014. Young people arriving at a YOI would instead be given a “rub down” search, scanned with a hand-held metal detector, and searched using a body orifice scanning system (Boss) chair.⁵⁷
83. Airport-style ‘wands’ are used by police in some circumstances as an alternative to strip searches for metal items. In the custody context, the IOPC has said that there is inconsistency between different forced about when metal detectors are used as part of searches (despite an expectation in the College of Policing’s Detention and Custody National Policing Curriculum that people should be searched using a metal detector before being placed into police cells). This was in response to a metal spoon not being detected (and later used to consume drugs leading to an overdose in custody).⁵⁸ These devices do have limitations, and need to be combined with other techniques, including manual search and careful observation. They cannot detect non-metal objects (e.g. shards of glass) and are not always able to detect small metal items (e.g. a razor blade).⁵⁹ In response to an incident in which a person suffered an overdose having been ‘wanded’ the IOPC issued the NPCC with a recommendation that a manual search is still required.

² The UN Convention on the Rights of the Child requires detention is used for the minimum possible time.

84. Of almost 700,000 s1 PACE stop and searches in the year to March 2021, only 2% resulted in an offensive weapon or firearm being found.⁶⁰ Suspicion of drug possession was recorded as the reason for 69%, and accounted for 75% of their total increase between the year ending March 2018 and the year ending March 2021.⁶¹ When considering the scale of ‘drug possession’ searches, analysis of disposal data by the charity Release and the London School of Economics indicated that this is driven heavily by searches for cannabis.⁶² Following an investigation into child strip searching, a Tortoise Media podcast reported that, *“according to Release’s data, as many as 60% of stop and searches are for cannabis. It also suggests that, in 2019, 90% of strip searches on people of all ages were for drugs, not weapons”*.⁶³
85. The government introduced 74 body scanners in prisons in England and Wales in 2020. They were reported to have prevented more than 10,000 attempts to smuggle contraband - including weapons, drugs and phones into prisons in just over a year⁶⁴. Detailed policies have been developed concerning their use⁶⁵. They are already being marketed to police.⁶⁶
86. Where a person is willing to give informed consent, increasing the use of medical professionals across search types may reduce risks both for the person being searched and for police. Code C does not currently reflect modern guidance from the medical profession that a low dose CT scan is safer than physical intrusion, which can be ineffective and cause injury. For example, if a person has drugs packed inside their body, intrusion can burst containers, and there is a significant likelihood of missing some items. The BMA/FFLM guidance states that, *“Intimate searches (of the vagina or rectum) are NOT recommended, even with the aid of a speculum or proctoscope as it may result in injury to the patient or examiner, risk breaking the package, and may not reveal deeply located packages...”* *“A Low Dose CT scan (LDCT) of the abdomen is the investigation of choice for suspected internal drug traffickers. However, consent is still required. Patients who refuse may require a period of monitoring in hospital”*.⁶⁸

Appropriate adult involvement

Current use of appropriate adults

87. The Children's Commissioner's study into strip searches by the Metropolitan Police Service (following Child Q) found that an appropriate adult was confirmed to be present in 77%, and was not confirmed to be present in 23% of 'strip searches' (Code A [MTIP](#) searches) of children⁶⁹. 'Not confirmed to be present' is not the same as 'confirmed not to be present' and the Children's Commissioner's report refers to "*low quality of recording practice*".
88. In a 2022 NAAN survey of appropriate adults providers (across the public, private and charitable sectors), 12.5% said that they had provided for Code A MTIP searches of children or adults in the year to 31st March 2022 (8.3% for children, 4.2% for vulnerable adults). Respondents covered 24 forces in England and Wales. This suggests most organised schemes are not being asked to provide for Code A searches. The data are not currently available to determine whether some forces are simply conducting MTIP searches of children and vulnerable adults extremely rarely, and using familial appropriate adults where they do.
89. From November 17th 2022, the Home Office is adding 'experimental' data on custody strip searches to its public statistics. Data on appropriate adults will also be added, though this will not evidence how often appropriate adults are present for Code C searches (see [Oversight and recording](#)).
90. It is important to understand that, subject to issues of clarity addressed below, many police searches of children and vulnerable adults that take place without an appropriate adult, may be taking place entirely within the rules. These include:
- searches under Code A that involve the removal of jacket, outer coat, and gloves; putting hands inside shoes, socks, pockets, collars; searching hair and headgear
 - more thorough searches under Code A which involve the removal of headgear with religious sensitivities, and the removal of clothes such as t-shirts, shorts and trousers that are not considered to 'expose' parts of the body that are 'intimate'
 - more thorough searches under Code A which expose intimate body parts but are considered by police to be a case of urgency where there is a risk of serious harm
 - more thorough searches under Code A exposing intimate body parts of a child, which non-urgent, but where the child and the appropriate adult agree the latter will not be present (as recorded by police and signed by the appropriate adult).
 - searches immediately after arrest (under s32 PACE, not Code A or C)
 - searches under Code C on arrival at custody, that involve the removal of only outer clothing, including shoes and socks
 - strip searches under Code C that are considered by police to be a case of urgency where there is a risk of serious harm
 - strip searches of a child under Code C, that are not a case of urgency, but where the child and the appropriate adult agree that the latter will not be present (and this is recorded by police and signed by the appropriate adult)
 - intimate searches, involving the physical penetration of body orifices, when carried out by medical professionals at a medical premises.

Intrusiveness

91. There has been widespread confusion about the requirement for an appropriate adult during searches of people, including amongst the public and the media. The complex, and arguably conflicting, rules and exceptions have resulted in what may, depending on interpretation, be overly broad statements about the rules. This has the potential to confuse and unintentionally mislead the public. Three interpretations are set out below.

All searches

92. The first interpretation is that the presence of an appropriate adult is required for *any search* of a child or vulnerable person, irrespective of its extent or invasiveness.
93. A rationale for the “all searches” interpretation is:
- Code C 1.7A states that in relation to both children and vulnerable adults, the appropriate adult should, “*support, advise and assist...when, in accordance with this Code or any other Code of Practice, [the person subject to the procedure is] given or asked to provide information or participate in any procedure*” [emphasis added].
 - All searches of people under Code A and Code C are PACE Code procedures. All searches require the participation of the child or vulnerable person. An appropriate adult cannot provide support, advice and assistance unless present. Therefore, an appropriate adult is logically required both when information is provided about the search (such as the grounds) *and* when a search itself takes place irrespective of the extent/invasiveness.
 - Code D, which includes searches of persons at police stations to establish identity, reinforces Code C 1.7A. Code D 2.15 states that, “*Any procedure in this Code involving the participation of a suspect who is mentally disordered, otherwise mentally vulnerable or a juvenile must take place in the presence of the appropriate adult*” (emphasis added).⁷⁰
 - The statement in Code C Annex A 11 (c) that, “*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 vulnerable person, one of the people must be the appropriate adult*” should be read as guidance on the number of people present for a search, and not as intending to limit when an appropriate adult is required.
 - The stop and search APP states that, “*Code A specifies a number of general principles that are relevant to proportionality and minimising intrusion on liberty. [These include,] Officers should complete the search as soon as possible and take no longer than is reasonable. What is reasonable depends on the circumstances – for example, it could include the time it takes for an appropriate adult to attend prior to searching a child.*”⁷¹
 - In same ‘general principles’ section, the stop and search APP also highlights Code A 1BA and states in relation to searching children under 10, “*Where it is necessary to do so, regardless of the extent of search, every effort should be made for the search to be conducted in a child-friendly location in the presence of an appropriate adult*” [emphasis added].⁷²

- Code A 1BA states that, *“Safeguarding considerations will also apply to other persons aged under 18 who are stopped and searched under any of the powers to which this Code applies”*.
- Where the Codes or APP make statements that refer specifically to safeguards that apply in the context of strip searches, this does not mean the same safeguards do not apply to other searches.

All strip searches

94. The second interpretation is that appropriate adults are required for *any strip search* of a child or vulnerable person, whether or not intimate body parts are exposed.

“If police judge it operationally necessary to strip-search a child, they must do so in the presence of the child’s appropriate adult”.

Kit Malthouse, Policing Minister⁷³

95. A variation on this perspective recognises the limited set of exceptions to this rule.

““We are therefore issuing a Section 10 learning recommendation to the MPS to take immediate steps to ensure that strip searches of children (undertaken as part of a stop and search or following an arrest) are being carried out in line with relevant legislation, national guidance and local policy. In particular, that the strip search of a child is conducted in the presence of an Appropriate Adult. Such searches should only be conducted without an Appropriate Adult in limited circumstances where a valid exception exists (as set out in PACE Code C)””.

Michael Lockwood, Director General, IOPC.⁷⁴

96. Based on the current Codes and APP, no rationale is available for the “all strip searches” interpretation in relation to stop and search.

97. A rationale for the “all strip searches” interpretation in custody is that:

- The statement in Code C Annex A 11(c) states that, *“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 vulnerable person, one of the people must be the appropriate adult. 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 appropriate adult to be present during the search and the appropriate adult agrees. A record shall be made of the juvenile’s decision and signed by the appropriate adult”*.

- The first sentence in Annex A 11(c) places a requirement on police to have at least two persons present if a search exposes intimate parts. This is an *additional* safeguard on this more intrusive search type. The reference to the appropriate adult is simply intended to clarify that, of these (minimum) two, one must be the appropriate adult in the case of a child or vulnerable person. It is *not* intended to limit the appropriate adult safeguard to searches which expose intimate body parts.
- The second sentence in Annex A 11(c) provides that there are only two exceptions to the requirement for an appropriate adult in relation to a child, being either (a) urgency, or (b) agreement between the child and AA. It states, *“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 appropriate adult to be present during the search and the appropriate adult agrees. A record shall be made of the juvenile’s decision and signed by the appropriate adult”*. The sentence sits inside Annex A 11, which starts *“When strip searches are conducted:”* and should therefore be read as referring to all strip searches. The reference to the exposure of intimate body parts in the preceding sentence relates only to that preceding sentence. *“Except in urgent cases as above”* refers only to the *first* clause of the first sentence in Annex A 11(c), and not the second clause.
- In support of this reading, Code C Annex E (Summary of provisions relating to vulnerable persons) paragraph 12 states that there is a single exception in relation to strip searches, stating, *“A strip search may take place in the absence of an appropriate adult only in cases of urgency when there is a risk of serious harm to the detainee or others”* [emphasis added].
- It can be deduced from the lack of exceptions in relation to less invasive searches, that there was no intention to require appropriate adults for searches that do not amount to strip searches.
- HM Inspectorate of Constabulary, Fire and Rescue Services custody expectations state that, *“strip-searching...is carried out (in the presence of an appropriate adult (AA) if required)”*.⁷⁵ The reference to “if required” relates to where the strip search is of a child or vulnerable person.

Only strip searches that expose intimate parts

98. A third interpretation is that appropriate adults are required only for *strip searches that expose the intimate body parts* of a child or vulnerable person.
99. This is the interpretation currently adopted by the detention and custody APP page on detainee care (children and young persons). There is no equivalent guidance in relation to vulnerable persons.

“Unless there is risk of serious harm to the child/young person or another, an appropriate adult must be present for a strip search if it involves exposure of intimate body parts”.

Authorised Professional Practice, College of Policing⁷⁶

100. A rationale for this in relation to Code C (custody) is:

- Code C Annex A 11(c) states, *“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 vulnerable person, one of the people must be the appropriate adult. 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 appropriate adult to be present during the search and the appropriate adult agrees. A record shall be made of the juvenile’s decision and signed by the appropriate adult”*. [emphasis added].
- In Code C Annex A 11 (c), the reference to “urgent cases as above”, should be read as meaning the sub-set of urgent cases that involve the exposure of intimate parts.
- HM Inspectorate of Constabulary, Fire and Rescue Services custody expectations state that, *“strip-searching...is carried out (in the presence of an appropriate adult (AA) if required)”*. ⁷⁷ The reference to “if required” should be read as meaning where the strip search is of a child or vulnerable person *and* exposes intimate body parts.

101. A rationale for this in relation to Code A (stop and search) is:

- Code C 1.12(vi) states that, *“This Code does not apply to people in custody detained for searches under stop and search powers except as required by Code A”*.
- Code A 3.7 states, *“The other provisions of Code C do not apply to the conduct and recording of searches of persons detained at police stations in the exercise of stop and search powers”*. It can be implied from this that also do not apply to Code A searches not conducted in a police station.
- Code A 3.7 states, *“Searches involving exposure of intimate parts of the body...must be conducted in accordance with paragraph 11 of Annex A to Code C...”*.
- Code A note for guidance 6 states, *“If a search involves exposure of intimate parts of the body and a police station is not nearby, particular care must be taken to ensure that the location is suitable in that it enables the search to be conducted in accordance with the requirements of paragraph 11 of Annex A to Code C”* [emphasis added].
- Code A does not mention appropriate adults explicitly. The only link is via Annex A 11. As established above that the other provisions of Code C do not apply, including Code 1.7A. The only mention of appropriate adults in Annex A 11(c), and as per the rationale for Code C above, this should be read as applying only to searches that expose intimate body parts.

Observations on the three interpretations

102. Interpretation 1 (all searches) avoids undermining Code C 1.7A. However, it is reasonable to argue that it is not proportionate to require an appropriate adult for searches that involve no more than the removal of more than outer clothing, including shoes and socks. There are very significant questions regarding resources and the logistics. It should also be carefully considered whether there are circumstances in which it would not be in the best interests of children or vulnerable people to require an appropriate adult for minor interactions. In practical terms, such a requirement would significantly lengthen the period of detention. This is all particularly true in relation to Code A searches conducted on the street.
103. Interpretation 2 (all strip searches) seems to align most closely with the expectations of the public, accountability bodies, and indeed Government Ministers. It is proportionate, with the potential additional inconvenience balanced by the intrusiveness of a strip search. However, while under the current Codes there is a strong rationale for this interpretation in custody, it was not possible to develop one for stop and search. Importantly, this is a limitation of the current Codes (which can be amended), not one of logic.
104. This interpretation does of course conflict with Code C 1.7A. Either current normal practice is non-compliant with PACE or the 'catch-all' wording of Code C 1.7A is misleading. The wording of Code C 1.12(vi) and Code A 3.7 may allow an escape for this in relation to Code A. If the exceptions (and seemingly intentional omissions) found elsewhere in the Codes have meaning, then the 'catch all' language of Code C 1.7A is meaningless and misleading. If this is accepted, it would be more honest if 1.7A were amended so that it is clear that the appropriate adult applies to every procedure 'unless otherwise specified', though this is arguably a downgrading of the appropriate adult safeguard.
105. Interpretation 3 (exposure of intimate body parts only) raises significant questions. There are questions about the [meaning of 'intimate'](#) and the [meaning of 'exposure'](#) (dealt with below). Under this interpretation, statements such as that by the (now former) Policing Minister above are inaccurate. It would be misleading to suggest that strip searches of children (or vulnerable people) require the presence of an appropriate adult, even if it were made clear that this was subject to limited exceptions. It would need to be made clear to the public, that appropriate adults are required only in a very narrow set of circumstances. Specifically, an appropriate adult is only required for a personal search if:
- the search is of a child or vulnerable adult; *and*
 - intimate body parts are exposed; *and*
 - it is not a case of urgency where there is a risk of serious harm to the person or others; *and*
 - in the case of a child only, either the child or appropriate adult have not agreed that the appropriate adult will be absent.

106. The singular reference to Code C Annex A 11 from Code A 3.7, leaves out Code C provisions that seem critical to police applying Annex A 11 in a meaningful way in the stop and search context, including those relating to appropriate adults and the people they support. For example:
- 1.4 (threshold for treating a person as a vulnerable person)
 - 1.13(d) (the definition of a vulnerable person)
 - 1.7 (definition of who may act as the appropriate adult)
 - 1.7A (the role of the appropriate adult)
 - 3.17A (requirement to advise the appropriate adult of their duties).
107. Code C 1.7A states that, *“The role of the appropriate adult is to safeguard the rights, entitlements and welfare of juveniles and vulnerable persons...to whom the provisions of this and any other Code of Practice apply”* and provides a non-exhaustive action list. It is reasonable to assume this description applies to MTIP searches. However, by linking solely to Code C Annex A 11, Code A 3.7 excludes 1.7A. Code A offers no alternative description of the rights and responsibilities of an appropriate adult in an MTIP search (which is contextually different to a custody strip search, even if it has to be conducted in accordance with the same rules). This leaves a number of questions. What is the role of appropriate adult in relation to MTIP searches? To what extent do the people conducting searches understand the role of the appropriate adult during the procedure? To what extent do the people acting as appropriate adult understand their role in relation to MTIP them?⁷⁹
108. The confusion appears to have made it difficult to develop clear APP. For example, the detention and custody APP page on control, restraint and searches (conduct of searches) does not mention appropriate adults. It states, *“For detailed guidance on intimate and strip searches, see PACE Code C Annex A”*.⁷⁸ There are also examples of vagueness in the stop and search APP, for example, *“Code A does not specify a location for conducting searches of children or vulnerable adults. In either case, however, if the officer considers that an appropriate adult needs to be present for the search and no such adult is available at the scene, they should make arrangements for an appropriate adult to attend as soon as possible or consider taking the person to another location where one will be available, such as their home or a police station”*. This gives the impression of recognition that more protection is required (at least for children) than is explicitly set out in the codes – perhaps tinged with concern about the logistical and resource impact.
109. Provisions in relation to appropriate adults for searches under terrorism legislation face similar issues. Like Code A, The Terrorism Act 2000 code of practice for s.43, 47A and Schedule 6B lacks explicit reference to appropriate adults, preferring a reference to Code C Annex A 11: *“If a search involves exposure of intimate parts of the body and a police station is not nearby, particular care must be taken to ensure that the location is suitable in that it enables the search to be conducted in accordance with the requirements of paragraph 11 of Annex A to PACE Code C”*.⁷⁹ This is in contrast to the code of practice for Schedule 7 makes explicit mention of appropriate adults in relation to strip searches.⁸⁰

⁷⁹ In 2022, Dr Miranda Bevan and the National Appropriate Adult Network produced an [animated video for familial and other appropriate adults](#) supporting people detained in police custody or voluntary interviews. There is no similar resource for appropriate adults present at a Code A MTS EIP search.

Cases of urgency

110. Code C Annex A 11 refers to “cases of urgency, where there is risk of serious harm to the detainee or to others”. This introduces the potential for confusion, since the concepts of ‘urgency’ and ‘risk of serious harm’ are different. There are multiple reasons why a police officer might consider a search to be urgent. Some will not relate to a risk of serious harm. Notably, in various places APP dispenses with the reference to urgency, stating that, “Paragraph 11 is clear that, unless there is a risk of serious harm to the person or someone else, an appropriate adult must be present for an EIP search of a child or vulnerable person”⁸¹ and that “...an appropriate adult must be present unless there is a risk of serious harm to the person or someone else”⁸² and that, “Unless there is risk of serious harm to the child/young person or another, an appropriate adult must be present”⁸³. Even if the APP construction is adopted, “risk of serious harm” remains somewhat unclear. Risk is the combination of likelihood and impact. The impact is clearly defined (serious harm) but the level of risk is not (e.g. ‘high’ or ‘significant’). Under the current wording, no appropriate adult is required if there is any risk of serious harm. It seems likely there will be significant variance in how “cases of urgency, where there is risk of serious harm to the detainee or to others” being interpreted and applied in the context of Codes A and C.
111. The PACE Codes leave it to the individual officer to determine whether an MTIP search, or custody strip search, is a case of urgency, and can be conducted without an appropriate adult present. For Code C, strip searches in custody are overseen by a custody sergeant, and above them a custody inspector (though the latter may well not be present). The APP begins to address this in relation to Code A MTIP searches, stating that the officer must consult a supervisor prior to the search. This provides an opportunity for reflection and scrutiny regarding the urgency, extent and necessity of the search. However, this does not apply if they cannot do so within a reasonable timeframe – meaning further discretion. And it is not reflected in the Codes.

Agreement to have no AA present

112. Subject to the agreement of the appropriate adult, a child can choose not to have the appropriate adult present for a search which would otherwise require that safeguard. The agreement must be recorded and signed by the AA. This raises several questions.

“In Child Q’s circumstances, whilst two people were present, they were both police officers. In the account of one of these officers seen by the review, they comment that Child Q ‘indicated’ that she didn’t mind one of the teachers acting as an Appropriate Adult but was uncomfortable about them being in the room. The officer further states that this teacher (and another) ‘seemed’ happy to be outside whilst the search was undertaken. ‘Indicated’ and ‘Seemed’ do not suggest a thorough process whereby specific clarification was being sought about how Child Q’s best interests would be protected”

Local Child Safeguarding Practice Review, Child Q⁸⁴

113. Why might a child decline? The obvious reason is privacy. It might feel more important to a child to protect their privacy from the appropriate adult, than to have their presence as a safeguard. Perhaps they have a high level of trust in the police. Perhaps they have a low level of trust in the appropriate adult. Perhaps it is awkward or embarrassing for a child experiencing puberty to have a parent (whom they will see every day) see their intimate body parts (particularly if they are being physically manipulated). Perhaps it is “uncomfortable” because the appropriate adult is a professional, such as a youth justice, social, education or community worker, with whom they have a prior and ongoing relationship. Or perhaps the appropriate adult is a trained person whom they have never met before, such as one from a local scheme. Are all these reasons valid? Are they fair to the child? Are some children being put in a lose/lose position? Are there alternatives that protect the child’s agency and privacy, but also ensure that some children do not go without protection?

“Officers say that the young man was asked for details of an appropriate adult and declined to give these.”

IOPC Learning the Lessons Issue 33: Stop and search, November 2018⁸⁵

114. Why might an appropriate adult agree to not be present? An untrained appropriate adult may not be fully or correctly informed about: the procedure; the implications for the criminal process; the possible emotional impact on the child; their own role; or the choices and alternatives available. They may have strong moral or cultural views about nudity, or intimate parts. They may have a very high level of trust, deference or compliance in relation to the police. A trained appropriate adult previously unknown to the person may feel their presence is an invasion of privacy and risks deepening the trauma.
115. Does the appropriate adult have to be present, in order to agree not to be present? There is no requirement, either in Code A or Code C, for the appropriate adult to be physically with the child when they agree not to be present for a custody strip or MTIP search. Code C does include a requirement for the appropriate adult to be called as soon as is practicable and asked to come to the station. But there is strong evidence to indicate that these calls are often significantly delayed and that appropriate adults are often not present until later in the detention episode. And this of course does not apply to MTIP searches under Code A. Code C Annex 11 (which does apply to MTIP searches) requires the appropriate adult to sign their agreement. This would seem to clearly indicate the intention that the appropriate adult was present in the police station. However, with the rise of digital signatures this can no longer be assumed. This allows for a situation in which the police phone a parent to explain the situation, and the AA agrees over the phone not to be present. This creates opportunities for the conversation to be controlled, intentionally or otherwise, by police.

“No Appropriate Adult was in attendance, teachers remained outside the room.”

Local Child Safeguarding Practice Review, Child Q⁸⁶

116. What is presence? In the case of Child Q, it is contested as to whether the appropriate adult requirement was fulfilled. The police considered a teacher to be the appropriate adult, though they were not in the room. The safeguarding review raised concerns about whether teachers were sufficiently aware and informed about the rules and their role. However, in practice, there are various types of appropriate adult involvement in strip searches, often developed in consultation with the person they are supporting. This includes being present in the room but averting their eyes throughout, or where intimate parts are exposed. This can be combined with an agreement to look directly or intervene if a child says so during the search. Alternatively, appropriate adults agree with the child or vulnerable person that they will stand just outside the door, ready to intervene on request. There is discussion about the relative benefits of these approaches, and whether children and vulnerable people are in a position to 'call out' when they are in the middle of experiencing trauma during a process which they are not familiar with and for which they do not know the rules. However, the idea that there are more options than simply 'present' or 'not present' is valid, as is the principle of engagement with the person regarding their wishes. The aim of the appropriate adult is not to inflict additional trauma – and it should be recognised that this is a risk.
117. It should also be noted that the exception that allows a child and appropriate adult to agree that the latter will *not* be present for a search, does not apply to vulnerable adults. The rationale for this may well have been an assumption that children were more likely to be traumatised by the process of having their intimate body parts seen by a stranger (or even someone known to them). The underlying motivation was perhaps one of extra protection (for children) rather than extra agency (for all).
118. This touches on a broader debate, related to the UN Convention on the Rights of Disabled People, regarding the fact that the appropriate adult safeguard is a non-waivable procedural safeguard rather than a waivable right. There is no choice for either children or vulnerable adults as to whether they have an appropriate adult overall. The appropriate adult is a mandatory procedural safeguard imposed on the police to ensure the reliability of evidence, rather than a waivable right of the suspect (like legal advice). This can be seen as contrary to disabled people having choice and agency. However, if it were not the case, the most vulnerable people may choose (or be convinced) not to have the safeguard applied, undermining its purpose. There is some evidence that in practice the PACE rules are not always followed when vulnerable adults indicate that they do not want an AA – especially in more minor cases where the absence of an appropriate adult presents a lower risk for police. Within the rules, it is interesting to note that a child 'opting out' of the safeguard during a strip search (albeit with the AA's agreement) is the only exception to this. It could be argued that if the exception ought to apply to either group, it certainly ought to apply to adults. This then touches on the central question of what the AA's purpose is in a strip or intimate search. Are they present to mitigate purely evidential risks, or something wider?

Definition of a vulnerable person

119. There is strong evidence that frontline police officers do not always know what is meant a vulnerable person in the specific context of PACE detentions, and that they lack the necessary tools and or training to effectively identify vulnerable people?[£]
120. PACE Code C has a detailed definition of a vulnerable person, which was updated in 2018. However, the only reference to “vulnerable” in Code A relates to treating children under the age of 10 carrying unlawful items as potentially vulnerable or intimidated witnesses. There is no mention of the PACE concept of vulnerable person as defined in Code C. The requirement for an appropriate adult under Code C applies not only to children but to vulnerable people. This is relevant to users of Code A at least in relation to MTIP searches which must be conducted under Code C Annex A 11.
121. Notably, the code of practice for TACT 2000 Schedule 7 states that *“These principles apply to other vulnerable people such as those who have a mental disorder”* as defined by the Mental Health Act 1983 in England and Wales [emphasis added], with no link to Code C at all.

Seizure of clothing

122. The Court of Appeal has ruled that Code C Annex A *“Paragraph 10 fails to provide for those situations, anticipated by section 54, in which the custody officer wishes to seize any clothing that may be used by the detainee to harm herself. This is a lacuna in the code, but paragraph 11 of Annex A applies to any strip search, not just to those strip searches carried out in compliance with paragraph 10”*.⁸⁷ This is not set out in PACE Code C section 4 which deals with the seizure of clothing. It is therefore unclear to officers what the expectations are in relation to appropriate adults (or indeed to the other safeguards in Annex A).

Clarity and understanding

123. Given the complexity, it is perhaps not surprising that there are example of police seemingly not applying the appropriate adult safeguard as a result of not understanding the rules. It is not clear to what extent frontline officers understand when, and to whom, the appropriate adult safeguard must be applied.

“The two men were taken to the police station for searches under section 23 of the Misuse of Drugs Act 1971... After the search, one of the men was asked for his name, address and age. He was 16. No appropriate adult was called. No record was made that a 16-year-old was searched without an appropriate adult...On arrival at the police station, officers discussed if an appropriate adult should be called for the 16 year old. The male officer said he was concerned about gang members concealing drugs internally. After talking to the custody sergeant, he thought a strip search could be done without an appropriate adult, if there was a serious concern for welfare. This is permitted by PACE only in cases of urgency, where there is a risk of serious harm to the detainee or others.”

IOPC Learning the Lessons Issue 33: Stop and search, November 2018⁸⁸

[£] See [There to Help 3 \(2020\)](#), National Appropriate Adult Network for data on police identification of vulnerable adults detained in police custody or attending voluntary interviews.

The sex and gender of the appropriate adult

Interpretation of “specifically requested”

124. There is a lack of clarity over the intent/scope of the exception that allows the appropriate adult to be of the opposite sex. There are differing views as to whether it is meant to apply:

- only to an appropriate adult specifically requested by the child – someone known to them (i.e. for example a girl who requests her Father as appropriate adult); or
- to an appropriate adult that was provided to a child in the absence of a known person being available (for example a volunteer from a local scheme) but where the child subsequently requests that the person is present during the strip search.

125. The Codes include a number of similar provisions with slightly different wording:

- Code C Annex A 5: “An intimate search at a police station of a juvenile or vulnerable person may take place only in the presence of an appropriate adult of the same sex (see Annex L), unless the detainee specifically requests a particular appropriate adult of the opposite sex who is readily available...”
- Code C Annex A 11(b) “When strip searches are conducted 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 (see Annex L) except an appropriate adult who has been specifically requested by the detainee;”
- Code C Annex E 12: “An intimate or strip search of a vulnerable person may take place only in the presence of the appropriate adult of the same sex, unless the detainee specifically requests the presence of a particular adult of the opposite sex.”
- Code A 3.6 “Any search involving the removal of more than an outer coat, jacket, gloves, headgear or footwear, or any other item concealing identity...may not be made in the presence of anyone of the opposite sex unless the person being searched specifically requests it”.
- The Terrorism Act 2000 code of practice for Schedule 7 refers to “an appropriate adult whose presence has been specifically requested by the person being searched”⁸⁹. Whereas the Terrorism Act 2000 code for s43, 47A and Schedule 6B states a more thorough search “may not be made in the presence of anyone of the opposite sex unless the person being searched specifically requests it”.⁹⁰

126. The different parts of the APP do not provide further clarity:

- Stop and search APP, legal application section: “[MTIP searches] must be conducted where the person cannot be seen by any member of the opposite sex apart from an appropriate adult specifically requested by the person being searched”, in line with Code C Annex A 11⁹¹.
- Custody APP, children and young people section: “An intimate search of a child or young person may take place only in the presence of an appropriate adult of the same sex, unless the child/young person expressly asks for an appropriate adult of the opposite sex, who is readily available”⁹². This is slightly different wording to Code C Annex A 5.

- Custody APP, control, restraint and searches section: “Officers and staff should carry out searches... in an area where the detainee can neither be seen by anyone who does not need to be present nor by a member of the opposite sex”⁹³. This does not reflect the exception in relation to appropriate adults.

127. The operational question is whether an appropriate adult provided by a scheme can be present for a strip search if they are not of the same sex as the person being searched. The possible answers being:

- a) Yes, they can. But only if they have been “specifically requested” by the person to be present for the search; or
- b) No, they cannot. Because they are not a “particular adult” who was “specifically requested” by the person.

128. Option (a) reflects our understanding of current common practice. It allows greater flexibility, including for a child who has (albeit in an extremely short time) formed a bond of trust with an appropriate adult from an organised scheme. In general, however, this interpretation effectively forces a child to choose between having a person of the opposite sex that they do not know present (which for some may be a further trauma) or having no appropriate adult safeguard at all (using the exception that the child and AA can agree for the AA not to be present). This introduces complex dynamics, including the risk that a child might worry about ‘rejecting’ the person who is there to support them. There is no equivalent provision in Code C for a *vulnerable adult* to agree with the appropriate adult that the AA will not be present.[§]

129. Option (b) is the interpretation taken by the NAAN National Standards 2018⁹⁴ [†] (approved by the YJB, ADASS and APCC) and supported the national standards for youth justice.⁹⁵ It means that the appropriate adult may only be of a different sex if they were requested by the child (thus requiring them to be someone known to the child prior to the detention/interview), most likely a parent or partner. As an appropriate adult from a scheme will almost certainly not be a ‘particular person specifically requested’, they must be of the same sex as the person to be searched. If they are not of the same sex as a child, the strip search cannot proceed unless the child waives their right to have an appropriate adult present.

130. The option (b) interpretation has significant practical challenges:

- This interpretation would mean that it is necessary for the police’s compliance with PACE for AA schemes to match the sex of the appropriate adult to the sex of the person being supported.
- This interpretation requires schemes, at the point that an AA is requested to attend, to enquire as to the sex of the person and whether police believe a strip search may be required. Where a strip search is expected and the AA is not the same sex, alternative arrangements would need to be made.

[§] See [Appropriate adult involvement: Agreement to have no AA present](#)

[†] [NAAN National Standard](#) 5.6 requires that the gender of the AA matches that of the person whenever required by the PACE Codes. So the interpretation of the standard could change in line with a change of interpretation of PACE. However, the indicators to the standard are clear regarding the need to ask about gender and match it where strip and intimate searches (and samples) will be taken.

- Statistically, the people being searched are much more likely to be male than female. While national data are not available for appropriate adults, it would be reasonable to assume that this not the case amongst trained appropriate adults.
- In practice, while it may happen, we do not believe there is systemic sex-matching of AAs and suspects in most areas. For this to be achieved would likely require significant reform of the system, both in terms of structure and financing.

131. There are arguments for the approach set out in (a), both practical and in the interests of the child. However, it seems clear that the underlying assumption in PACE is that having a person of the opposite sex being present is inherently bad. In this regard, PACE may well be overly simplistic and perhaps this warrants further interrogation. But as it stands, the exception would seem to be in place for appropriate adults who are people with an established relationship to the person being searched. In drafting the provision prohibiting the opposite sex, the authors sought to avoid the inappropriate prohibition of parents, partners, family and other trusted people of the opposite sex. Had the intention been simply for the person being searched to be in control of whether any appropriate adult was present for the search, it could easily have been set out in those terms – as a right to choose.

132. This dilemma touches on PACE's exclusion of parents who are unwilling, unsuitable or unable to take on the appropriate adult role. There is evidence that parents are not effective in delivering some of the appropriate adult's functions – not least because they cannot reasonably be expected to know all the rules, rights and responsibilities. Yet, the strip or intimate search is an area where it is difficult, if not impossible, for a trained appropriate adult to replace someone known by the individual. The question is how best to ensure those who don't have a 'known person' present are safeguarded, both in terms of the protection of rights and the avoidance of additional trauma. As discussed above^u trained AAs (whether or not they are the same sex) would typically ask the person whether they would prefer to have them just outside the door – or if inside the room they would look away at a wall. There is a valid question as to whether this is a satisfactory safeguard, and whether a combination of familial and appropriate adult support is required, or at least preferable.^v

Trans, intersex and non-binary people

133. The establishing of the gender of persons for the purpose of searching is covered in Code C Annex L and the custody APP.⁹⁶ Annex L paragraph 3 notes that the issuance of a Gender Recognition Certificate (GRC) under the Gender Recognition Act 2004 means that person's sex becomes legally the same as their acquired gender. Paragraph 4 stresses that people should not be asked if they have a GRC. It focuses on treating people as the gender they consider themselves to be, unless there are *"grounds to doubt that the preference accurately reflects their person's predominant lifestyle"*. This is presumably aimed at a hypothetical situation in which a person pretends to be trans. No data appears to be publicly available regarding the extent to which this occurs in practice. However, a situation in which the person's stated preference does not match with the police officer's judgement of their 'predominant lifestyle' could present significant risks to both police and the person being searched. This is an area of police discretion, and therefore where those risks have been transferred from the Codes to the individual officer making the decision.

^u See [Interpretation of Code C Annex A 11: Child's agreement to have no AA present](#)

^v This would increase the demand for trained appropriate adults, as they would be required even where a family member was present as the appropriate adult under the current Code.

134. The dichotomous model of gender excludes some people, including those who are non-binary, intersex and agender. Annex L note L2 does briefly recognise this, referring to *“self-identification as being a woman, man, neither or both”*. However, the broader Code frequently refers to “same sex” versus “opposite sex”. This means that Annex L is effectively guidance for police to determine whether the person is to be treated as male or female.
135. Moving to reflect the *reality* of gender identification presents an obvious operational question. What should be the requirements, and prohibitions, on the sex and gender of the appropriate adult in the case of a child or vulnerable adult who does not consider themselves either male or female? In very practical terms, it cannot be satisfactory for the police to be left effectively asking, “Ok, but if you *had* to pick a gender?”. It does not seem conceivable that there will be non-binary, intersex or agender appropriate adults (nor police officers) available at all times and in all relevant places. On this basis deference, or at least due regard, to the preference of the person being searched (as to the sex or gender of the appropriate adult) seems appropriate.
136. This is relatively easy to resolve in relation to appropriate adults that have been ‘specifically requested’. The fact that they are known to the person being searched (e.g. family members), *and* have been chosen by them to be present, arguably renders sex and gender irrelevant. This supports the ‘Option (b)’ interpretation of ‘specifically requested’. The one issue is that the exception (in Code C Annex A 11(b)) for appropriate adults who are specifically requested refers to them being a member of the “opposite sex” – a term that is meaningless if the person being searched is non-binary.
137. A familial appropriate adult is not necessarily also a person specifically requested by the person. For example, the police are required to seek to contact a parent in the first instance for a child, irrespective of the child’s wishes. However, once that person is in attendance, the child might decide that they want them present. This could be seen to support ‘Option (a)’ interpretation of ‘specifically requested’. Similarly, it is not certain that a vulnerable adult will have ‘specifically requested’ the person who supports them, even if an organised scheme is not used. Code C 1D states in relation to vulnerable adults that, *“it may be more satisfactory if the appropriate adult is someone experienced or trained in their care rather than a relative lacking such qualifications. But if the person prefers a relative to a better qualified stranger or objects to a particular person their wishes should, if practicable, be respected”*.
138. Organised schemes respond to requests for appropriate adults made by police. NAAN National Standard 5.6 states that, *“In the case of a person who identifies as being trans, intersex or non-binary gender, the AA should be of the gender of their preference as determined by police”*.⁹⁷ Under the Option (b) interpretation of ‘specifically requested’, they would currently need to be the ‘same sex’ as the person being searched. As stated above, many appropriate adult schemes do not currently have the ability to match the sex or gender of the appropriate adult in normal practice. In that case, under the Option (a) interpretation, the person would have to decide after the appropriate adult’s arrival whether they wanted them present or to have no AA present.

Parental involvement

“Finding 6: The absence of any specific requirement to seek parental consent when strip searching children undermines the principles of parental responsibility and partnership working with parents to safeguard children”.

Local Child Safeguarding Practice Review, Child Q⁹⁸

Limited parental involvement in custody

139. Under Code C 3.13, when a child is detained the custody officer must, if it is practicable, ascertain the identity of a person responsible for their welfare. The person must be informed as soon as practicable that the child has been arrested, why they have been arrested and where they are detained. This may be:

- the parent or guardian
- if the juvenile is in local authority or voluntary organisation care, or is otherwise being looked after under the Children Act 1989, a person appointed by that authority or organisation to have responsibility for the juvenile’s welfare; or
- any other person who has, for the time being, assumed responsibility for the juvenile’s welfare.

140. Code C does not require the police to invite or enable the above ‘welfare person’ to see the child, unless they also act as the appropriate adult. There is no requirement to inform the welfare person of any search taking place, whether in advance or afterwards (with the exception of the narrow case of an intimate search of a child for Class A drugs, for which parental consent must be secured). This remains the same even if the welfare person is also acting as the appropriate adult (in the case of a non-urgent strip search the appropriate adult will be present, though is not necessarily a parent).

141. Code C does entitle a detained person and their appropriate adult to a copy of the custody record for a limited time after release. This should provide details of any searches. However, this is after the fact, and rarely used by familial appropriate adults in practice.

Limited parental involvement in stop and search

142. The stop and search APP touches on the importance of parental involvement, stating, “...regardless of the extent of search [of a child under 10] ... This could mean taking the child to their home to be searched in the presence of their parent or guardian”, and that, “Safeguarding considerations will also apply to other persons aged under 18”. It also highlights the Children Act 2004 s11 duty on police to ensure that their functions are discharged having regard to the need to safeguard and promote the welfare of children.⁹⁹

143. People who are stopped and searched under Code A are detained, whether or not in a police station. However, under Code A 3.7, MTIP searches must be conducted in accordance with Code C Annex A paragraph 11 but not the wider provisions of Code C (even where they are carried out at a police station). There is no requirement in Code A for police to inform a parent when they detain a child (or any other person in the case of a vulnerable adult). Nor is there a requirement in Code A for police to inform a parent when they search a child (or any other person in the case of a vulnerable adult), irrespective of the extent or intrusiveness of the search (there being no 'intimate search' under Code A).

Intimacy

The meaning of 'intimate'

144. Distinction is drawn between Code A MTS searches that do, and do not, expose intimate parts (the former referred to as MTIP in this paper). An MTS search that does not expose intimate parts still allows the removal of a t-shirt. There is no definition of 'intimate parts' in the Act, Codes or APP. This leaves police to interpret for themselves what parts are intimate. While it might at first thought seem 'common sense', the word 'intimate' is highly personal and emotional. Does it include: sexual organs, genital area, perineum, anal area, pubic hair, inner thigh, groin, buttock, breast, nipple? Is it different for men and women, for pre-pubescent children, for neurodiverse people, for shy people? What about for people who cover parts of their body for religious or cultural reasons? A search of hair is already treated as an MTS search for this reason – but could it be considered 'intimate'. Unless explicitly defined, this is open to interpretation by individuals – and the view of the officer and the person being searched may well differ.
145. The Codes defines safeguards only in terms of clothing and exposure. While they are clear that the search of mouth is not an intimate search, they do not (for example) set out whether a search of a mouth requires the safeguards of an MTS or custody strip search.
146. The reason for the distinction between intimate and non-intimate parts of the body is unclear. To what extent is the reason evidential, operational, human rights, legitimacy, and community relations? Clarity on this may help to guide the way to a solution.

The meaning of 'exposure'

147. The idea of 'exposure' could also be interrogated. It is clearly intended to mean the revealing or uncovering of a body part to direct vision. But in terms of what might make an individual feel that an intimate body part has been exposed, this is not a prerequisite. For example, children experiencing puberty, the exposure of their underwear could feel almost as exposing as its removal.

The line between a search of intimate parts and an intimate search

148. There is a significant and widening gap between what the law says about police searches, and public understanding and acceptance. In addition to failing to differentiate between MTIP and custody strip searches, [media articles](#) have used the terms 'strip' and 'intimate' search interchangeably. There are many actions allowable under the term 'strip search' that the public might reasonably consider 'intimate'. The line between strip and intimate searches is important. Intimate searches are not permitted under stop and search powers (either under [Code A](#) or [Schedule 7](#)). They attract very different levels of safeguards. A gap between practice and public understanding and support attracts a high risk.
- A Code A MTIP search must be conducted in accordance with Code C Annex A paragraph 11 (strip searches in custody). This states that the person (e) *"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 within any body orifice other than the mouth, and the detainee refuses to hand them over, their removal would constitute an intimate search"*.

149. The Stop and search APP states that, *“If necessary to assist the search, the person may be asked to facilitate a visual examination of the genital and anal area but no physical contact may be made with any body orifice”* and that, *“If an item that the officer is searching for can be seen in a body orifice other than the mouth as a result of an EIP search, it cannot be seized, as that would constitute an intimate search. Intimate searches are not permitted under any circumstance under stop and search powers”*.¹⁰⁰
150. However, according to *Owens v Chief Constable of Merseyside Police* [2021] EWHC 3119 (QB), physical contact *can* be made during a strip search. It only becomes an intimate search if there is physical intrusion into a body orifice. A strip search can include a *visual* inspection inside a body orifice, obtained by the police making *physical* contact with (for example) the person’s genitals or requiring the person to do it themselves. The example in the case is having a male in custody separate his penis and testicles, pull his foreskin back, turn around, lean over and separate his buttocks. But it could also apply to the manipulation of a vulva (opening of the vagina and urethra, labia majora and minora, and clitoris; children and vulnerable adults; ¹⁰¹ and searches under other codes e.g. Code A and the Terrorism Act.
151. *Owens* was clear that where the police order or coerce a person into performing an act themselves (such as moving genitals) it is as if the police do it themselves. There *can* be a consensual act of removal which involves a physical intrusion by the person into their own orifice. But an intimate search cannot become a strip search because the person is forced to make the physical contact themselves. The extent to which the invitation to take action voluntarily is understood by the person and genuinely free of coercion is an open question.
152. *Owens* was explicitly about Code C. It related to actions taken in police custody. Neither Code A nor ‘stop and search’ are mentioned in the judgement. However, as the extent of an MTIP search under Code A is currently defined by Code C Annex A 11, it could be interpreted as applying to such searches.

The meaning of ‘body orifice’

153. Neither the PACE Act, Codes, or College of Policing guidance define what constitutes a body orifice. PACE 1984 s.65 and TACT 2000 Schedule 7 s.8(7) refer to *“physical examination of a person’s body orifices other than the mouth”* - so the mouth is an orifice. In the *Owens* judgement above, the judge said that orifice certainly includes ‘ears, nose, anus and vagina’. He accepted it would also include the opening of the urethra (though not the foreskin). The status of the opening of breast milk ducts was not decided. For comparison, MHRA guidance on legislation states that a body orifice *“includes any natural opening in the body, as well as the external surface of the eyeball, or any permanent artificial opening such as a stoma”*.¹⁰²
154. If one is seeking to distinguish whether something is “intimate” (from the public’s point of view,) the relevance of whether a body part is an orifice seems may be a distinction of limited value when divorced from the nature of that orifice. For example, a nasal swab for Covid-19 is a physical intrusion into a body orifice. However, most would see this as less intimate than the retraction of a foreskin.
155. Clarity is required both for the public and for police officers, whether working in custody or elsewhere. Following the ruling the custody APP on control, restraint and searches was amended to say, *“Despite this ruling, care should clearly be taken in the operational context when considering such intrusive activity”*.¹⁰³ Officers should not be put in the position of needing to breach the PACE Codes to comply with the law (or vice versa). As the *Owens* court judgement takes precedence over the Codes, this may require legislation.

Trauma and consent

Trauma

“What is apparent is the sheer significant impact that it has on children and young people’s mental health. It is a deeply traumatising, degrading, humiliating experience that nobody should actually have to endure, and let alone children.”

“Even when the protocols and the safeguards are followed, like there being an appropriate adult present, this is still a child being asked to remove their clothing in front of strangers who are adults and do various things. It’s humiliating and it’s the type of shame that I don’t know if one can ever really recover from that.”

“To experience that at the hands of the people who are supposed to protect you and keep you safe, that is another layer of trauma.”

Temí Mwale, 4Front Youth Empowerment Organisation, Colindale¹⁰⁴

156. Police officers will often conduct a strip search to protect a person from causing themselves harm. Yet the word “violation” repeatedly comes up in discussions about strip searches, including from people with a policing background¹⁰⁵. While the phrase ‘trauma-informed’ is gaining traction in policing, there is perhaps not a universal understanding of its meaning and implications. It is still the case that the focus of risk assessments can be limited to, or focused on, physical risks rather than psychological risks. This is particularly important because people who come into contact with the police are not representative of the wider population. For example, abused or neglected children are more likely to be arrested as both children and as adults.
157. There are parallels between the current public concern over stop and search, and interest in strip searches in young offender institutions (YOIs), secure children's homes (SCHs) and secure training centres (STCs) almost 10 years ago. In 2013, a Freedom of Information Request found that there had been 43,960 recorded incidents involving children as young as 12 over a 21-month period – but in only 275 searches were illicit items found. 48% of children strip-searched were from black and minority ethnic communities. The author of the FOI request, Carolyne Willow (a former national co-ordinator of the Children's Rights Alliance England) describe the *“practice of children being forced to expose their naked bodies to adults in authority as institutionalised child abuse”*.¹⁰⁶
158. Even further back, in 2006, Lord Carlile QC conducted an inquiry into the use of restraint, strip-searching and segregation in child custody. According to the Guardian, *“One 16-year-old girl told the inquiry she had been strip-searched and ordered to hand her sanitary towel to staff”* while, *“Another girl recalled: “When I had my first full search it was horrible as I have been sexually abused and I didn't feel comfortable showing my body as this brought back bad memories”*.¹⁰⁷ Notably, the Carlile Inquiry’s final report stated that, *“Within the custodial context a strip search is more than just the removal of clothes for a visual inspection. It is a manifestation of power relations. A strip-search involves adult staff forcing a child to undress in front of them. Forcing a person to strip takes all control away and can be demeaning and de-humanising. This power is compounded by the threat, or actual use of, force to those showing any reluctance to strip”*.¹⁰⁸

159. Many police officers express the view that they have a strong dislike of carrying out strip searches, particularly of children, though the same may be true of vulnerable adults. Such searches may be relatively rare compared to other policing activities but are not unusual. The psychological impact on police should not be equated with the experience of the person being searched. However, strip searches could be traumatic for officers – especially over time. Close to one in five police officers and staff in the UK have symptoms consistent with either post-traumatic stress disorder or what’s known as “complex PTSD” – yet over two-thirds of those suffering are unaware.¹⁰⁹ This leaves open the question about their coping mechanisms and how they may lead to negative outcomes both for police and the public.
160. The voices of children are often obscured in research and media, often with ethical justifications. It is valuable to reflect on the insight into trauma caused by search provided by Child Q in the safeguarding review. Similarly, the voices of affected parents are not always heard. And it is important to note the wider impact on families and those that love the person affected by trauma - impacts that ripple out into communities, whether based on geography, shared culture or ethnicity.

“I feel like I'm locked in a box, and no one can see or cares that I just want to go back to feeling safe again, my box is collapsing around me, and no-one wants to help... “I don't know if I'm going to feel normal again. I don't know how long it will take to repair my box. But I do know this can't happen to anyone, ever again...But I'm just a child. The main thing I need is space and time to understand what has happened to me and exactly how I feel about it and getting past this exam season.”

Child Q¹¹⁰

“Child Q is a changed person. She is not eating, every time I find her, she is in the bath, full of water and sleeping in the bath. Not communicating with us as (she) used to, doesn't want to leave her room, panic attacks at school, doesn't want to be on the road, screams when sees/hears the police, and we need to reassure her.... We try to get her to do things and reassure her. Child Q is not the same person. Was a person who liked to be active and get into things. Not now, she has changed. She comes home, goes upstairs in the bedroom and closes the bedroom door. Saying she is doing mock exam studies, she just locks off, saying leave me alone. When sleeping, (she is) screaming in her sleep, I have to watch her.”

Child Q's Mother¹¹¹

“I see the change from a happy go lucky girl to a timid recluse that hardly speaks to me...In my opinion, they have got a problem with Child Q and the aftermath is that when she sees this individual (a teacher) in school, gets panic attacks...She is now self-harming and requires therapy. She is traumatised and is now a shell of the bubbly child she was before this incident.”

Child Q's Aunt¹¹²

Limited scope for consent

161. In relation to children, whenever consent is required under PACE, parental consent is required. For 10 to 13-year-olds, the consent of a parent or legal guardian consent is sufficient on its own. For 14 to 17-year-olds, consent is required from both the child and their parent or legal guardian.¹¹³ Parents and legal guardians will of course differ in their views on a child's best interests, but this at least requires parents to be notified in advance of the procedure and provides an opportunity for them to be involved.
162. However, the only search type requiring consent is an intimate search for Class A drugs. This must be in writing¹¹⁴, and they must be given a warning that it may harm their case if it goes to trial if they don't have a good reason.¹¹⁵ All other searches, including intimate searches for injurious objects, and strip searches that expose intimate body parts, do not require consent. This applies for children and vulnerable adults as it does for all other persons.

"Both the review and the reference group struggled to understand the rationale behind these differing approaches to consent. On the face of it, the law appears to suggest that the requirement for a child to expose their intimate body parts is insufficiently significant to require their parents to be told it is going to happen"

Local Child Safeguarding Practice Review, Child Q¹¹⁶

163. Even where consent is technically required, this can be bypassed. Guidance from the British Medical Association and Faculty of Forensic and Legal Medicine states that, *"Police sometimes attempt to argue that a Class A drug could be used to cause harm and that an intimate search under the left hand column could be authorised and carried out by an officer, doctor, or nurse, without consent. THIS IS NOT THE CASE and healthcare professionals should explain why and refuse"*.¹¹⁷ This is evidence of the downside of police discretion, leaving the individual officer to decipher complex legislation. In the context of intimate searches, there are least medical professionals in a position to provide a robust challenge (though the existence of the guidance implies that this is not always the case). This is not the case for other forms of search, where there is no medical professional, no legal advice, and often no appropriate adult.

Use of force, coercion, compliance and uninformed consent

164. There would of course be operational concerns regarding any necessity for consent. Why should a criminal be allowed to frustrate the search for an incriminating item? What would be the consequence if they were not forced to handover a dangerous item? No doubt, where a person does in fact have a relevant item, most police officers would prefer them simply to hand over the item. Though of course in the Child Q case, and in many others, this was not an option because the object that was the reason for the search did not exist. [Home Office data](#) indicates that in 75% of instances of stop and search, nothing was found^w. So it is

^w Police powers and procedures: Stop and search and arrests, England and Wales, year ending 31 March 2021 second edition [Updated 5 May 2022]. Table 2.3: Proportion of stop and search where the outcome of the stop was linked to the reason for the stop and search, by reason for stop, England and Wales, year ending March 2021

important to be clear that, in the vast majority of cases of Code A searches, the member of the public being affected does not have anything on them to be found. However, arguments along the lines of “If you have nothing to hide, you have nothing to fear (and therefore why not consent?)” are simplistic.

165. Forced or coerced searches generate a higher risk of trauma for the individual. They increase risks for officers conducting the search. Those conducted by genuine consent would be lower risk, and provide the person with a greater sense of agency and dignity. This in turn benefits police legitimacy and community relations.
166. In the PACE context (an adversarial system) there is always a risk that consent will be given under intimidation or threat. This does not mean these are overt or even intended by police. It can be actual or perceived. This type of interaction with police is intrinsically psychologically threatening – it generates fear.

The reference panel considered the arrival of the police at school and how Child Q might have reacted to this trauma. Whilst well-known behavioural responses are the fight, flight, or freeze responses, Child Q may have experienced a fawn response. Flight includes running away, fight is to challenge aggressively, and freeze is when someone becomes unable to move physically or make choices. The fawn response involves rapidly moving to try to please a person to avoid any conflict. This could have accounted for Child Q's compliance.

Local Child Safeguarding Practice Review, Child Q¹¹⁸

167. Equally, consent can be informed or uninformed. If a person has limited information about the implications of consenting or refusing consent, then consent is not informed.
168. The PACE definition of vulnerable people highlights the risks of compliance and uninformed consent, by including who: may have difficulty understanding or communicating effectively about the full implications for them of any procedures and processes; or appear particularly prone to becoming confused and unclear about their position, accepting or acting on suggestions from others without consciously knowing or wishing to do so, or readily agreeing to suggestions or proposals without any protest or question. It therefore makes sense that, in relation to both child and vulnerable adults, whenever consent is required under PACE, the person's consent must be given in the presence of an appropriate adult. However, as stated above, the vast majority of searches under Code A and C do not require consent at all.
169. Appropriate adults are not the only relevant safeguard in the PACE context. The role of legal advice from solicitors or legal representatives, is also critical. A person detained under Code C can access free legal advice, and if they are a child or vulnerable person this is always in person even if they are being investigated in relation to a 'minor' offence. Changes to legal aid funding have limited the scope of the support available through legal advisors, and the opportunity for legal advisors to provide advice in relation to consent for searches in custody is limited. However, it is notable that while 'legal advice' runs as a thread through Code C, it is not mentioned in Code A.

Voluntary searches

170. The issue of consent also raises the issue of 'voluntary' searches. A voluntary search is, in effect, a search with consent. Logically, this should be fully informed consent, free of any coercion whether intended or not. What safeguards exist to ensure that this is true for children and vulnerable adults? It is reasonable to argue that seeking to fully formalise every police search interaction will benefit neither the police nor the public. But it is also reasonable to question the extent to which voluntary searches can and should take place, and whether they are genuinely voluntary.
171. The stop and search APP states, *"There is no power for an officer to require the person being searched to remove any clothing in public apart from their jacket, outer coat and gloves (JOG), although the officer may ask the person to do so voluntarily (Code A, guidance note 7). If the officer does ask the person to voluntarily remove more than JOG in public, they should make it clear that the person is not obliged to comply".*¹¹⁹ And Code A Note for guidance 7 states, *"Although there is no power to require a person to do so, there is nothing to prevent an officer from asking a person voluntarily to remove more than an outer coat, jacket or gloves in public".*
172. However, Code A 1.5 states that, *"An officer must not search a person, even with his or her consent, where no power to search is applicable. Even where a person is prepared to submit to a search voluntarily, the person must not be searched unless the necessary legal power exists, and the search must be in accordance with the relevant power and the provisions of this Code. The only exception, where an officer does not require a specific power, applies to searches of persons entering sports grounds or other premises carried out with their consent given as a condition of entry".*
173. The APP appears to suggest that where additional clothing cannot be required to be removed in public, the police can ask for them to be removed voluntarily. However, Code A appears to require that even where a person volunteers, the search must be conducted in accordance with the rules. The Code position would seem to be more protective against the risks of (in particular children and vulnerable) people being coerced and/or uninformed.

Understanding and use of rights

Children

174. The safeguarding review found that Child Q was fully compliant with the request to be strip searched, stating, *“she appeared unable to challenge any of the actions being undertaken and is unlikely to have known about what she could expect, even by way of procedure (i.e. such as the requirement for both her and an Appropriate Adult to agree and sign for the Appropriate Adult not to be present during the strip search)”*.

175. This highlights three areas of concern:

- People do not know what to expect from the different levels of search, increasing their fear and anxiety.
- People do not know their rights and the correct procedures in relation to searches, and may simply assume that the police will know the law and follow it at all times
- People do not feel they are in a physical, mental or emotional position to be assertive and challenge the police.

Teachers and educational establishments

176. Mirroring the areas of concern above, in relation to children’s understanding and ability to use their rights, the Child Q safeguard review found that:

- *“School staff deferred to the authority of the police on their arrival at school. They should have been more challenging to the police, seeking clarity about the actions they intended to take. All practitioners need to be mindful of their duties to uphold the best interests of children”*.¹²⁰
- *“School staff dispute having ever been told about the planned strip search. In this sense, even if they knew they were the Appropriate Adult for Child Q, their ability to effectively advocate for her was seriously undermined”*¹²¹
- *“The officer further states that this teacher (and another) ‘seemed’ happy to be outside whilst the search was undertaken. ‘Indicated’ and ‘Seemed’ do not suggest a thorough process whereby specific clarification was being sought about how Child Q’s best interests would be protected”*¹²².
- *“Many [school staff] reflected their sadness and disappointment at what Child Q had experienced, with comments made as part of the school’s Stage 2 investigation report echoing these feelings”*¹²³

“In hindsight I put my trust in the law; I know now that I need to understand the law better... For example, insisting on staying with a student at all times...”

“This is the hardest thing that we’ve had to go through and for anyone to think that the school might be complicit is very stressful and difficult to deal with.”

*School staff, Local Child Safeguarding Practice Review, Child Q*¹²⁴

Location

Lack of clarity over the best location for searches

177. The Children's Commissioner found that, of the 269 searches of children by the Metropolitan Police Service in 2021 for which the location of the search was recorded, 57% happened at a police station and 21% at a home address. 22% happened at another location. The MPS could not be certain that none had taken place in a school¹²⁵.
178. In 2020, the IOPC recommended that the Metropolitan Police Service amend their stop and search policies, procedures and training to include a routine risk assessment of the physical environment in which the individual has been stopped, together with the physical and mental condition of the individual prior to conducting the search¹²⁶.
179. The important question of where best to carry out a search is not addressed by Code A resulting in a lack of clarity for police officers.

"Officers say he was given the option to be searched in the back of the police van, and opted for this, instead of going to the station. Officers said that they thought a search in the van was acceptable. This is explicitly prohibited in PACE."

IOPC Learning the Lessons Issue 33: Stop and search, November 2018 ¹²⁷

180. Code A gives police discretion on the location in which the search is carried out, subject to it being nearby (a "reasonable" travelling distance) the location of the stop. The officer must determine what is a 'reasonable travelling distance' depending on the circumstances – including the modes of transport available. The limitations are that an MTS search may not take place in public view (including on an empty street), and an MTIP search cannot take place in a police vehicle.¹²⁸
181. There is an inherent tension between convenience and safeguards which needs to be managed, either through the officer's discretion or explicit requirements (or some combination of the two). In practice, both convenience to the person being searched and convenience for police officers are likely to be factors. Equally, safeguards have the potential to be considered inconvenient by both parties – at least in the short term.
182. Should all children be brought to police stations where there is greater oversight? Or does this create an even greater and more disruptive imposition on them? What weight should be given to police efficiency? What is the differential impact on a child of the enforced removal of their t-shirt if it takes place in a nearby building, a police vehicle, or a police station? It is reasonable to assume that it depends on the individual child's personality, physical and emotional maturity, the wider circumstances, the attitude and behaviour of police, past experiences, what they would otherwise be doing with their time, what support they get at each location, and other factors.

183. It also depends on the time frame over which we are measuring impact. Steps that might minimise the impact on today might increase the future impact. For example, a child might be released from police custody more quickly if they waive their right to legal advice, but this may result in them being unable to pursue a particular professional career in the future.
184. There is a notable lack of provisions or guidance in relation to children and vulnerable adults. Within the PACE system more broadly, the balance tips more towards safeguards (despite their occasional inconvenience) in cases of children and vulnerable adults. Code A 1BA, which refers to acting, *“in accordance with establishes force safeguarding procedures”* in relation to searches of children under 10. It also states that, *“Safeguarding considerations will also apply to other persons aged under 18 who are stopped and searched under any of the powers to which this Code applies”*.^{[129](#)} However, there is no mention of adult safeguarding.
185. Stop and search APP provides some guidance in relation to children and vulnerable adults:
- *“Code A does not specify a location for conducting searches of children or vulnerable adults. In either case, however, if the officer considers that an appropriate adult needs to be present for the search and no such adult is available at the scene, they should make arrangements for an appropriate adult to attend as soon as possible or consider taking the person to another location where one will be available, such as their home or a police station”*.^{[130](#)}
 - In relation to MTIP searches of children or vulnerable adults, the APP refers to the need to use a *“safe and controlled location”*.^{[131](#)}
186. The stop and search APP also provides additional guidance in relation to children only:
- *“Where it is necessary to [stop and search a child under 10], regardless of the extent of search, every effort should be made for the search to be conducted in a child-friendly location in the presence of an appropriate adult. This could mean taking the child to their home to be searched in the presence of their parent or guardian. Where this is not operationally possible, the search should as a minimum take place in a safe and controlled area, a police station being preferable to the street or in a police vehicle”*.^{[132](#)} Code A does not mention the word ‘home’.
 - *“Officers should complete the search as soon as possible and take no longer than is reasonable. What is reasonable depends on the circumstances – for example, it could include the time it takes for an appropriate adult to attend prior to searching a child.”*^{[133](#)} In line with the spirit of PACE, this supports the balance being in favour of safeguards over convenience for vulnerable people. Children are mentioned by way of an example, so this could be applied to vulnerable adults. Though the lack of their explicit mention makes it less likely.

The use of educational establishments

187. Under Code A, police have discretion to carry out any level of search at a nearby location out of public view. This is the basis upon which MTIP have been carried out in schools. Based on our engagement with Designated Safeguarding Leads in several schools (state, private, multi-academy trust, boarding, international) there is a deep concern regarding the conducting of Code A searches (at least MTIP searches) within educational establishments. A critical issue is that while the child may feel ‘safer’ there than being taken to a police station, once the search has taken place the sense that school is a safe place simply evaporates. This is a high price for both child and school to pay for ‘feeling safer’.

“Someone walked into the school, where I was supposed to feel safe, took me away from the people who were supposed to protect me and stripped me naked, while on my period”.

Child Q¹³⁴

188. This issue of the ‘safety’ of locations (psychological at least as much as physical) raises another tension or dilemma. The ‘safer’ a space is, the more appropriate it is for an intrusive search, since it reduces the risk of harm to the person being searched – hence searching a child at home. However, carrying out a psychologically harmful act in a psychologically safe space destroys that safety – hence not searching a child at school.

“In my personal opinion, they have got a problem with Child Q and the aftermath is that when she sees this individual (a teacher) in school, gets panic attacks. They are the main instigator of the exposure.”

Child Q’s Aunt¹³⁵

189. The dilemma brings us back to the central question of the extent of police discretion. The greater discretion, the greater the responsibility on the individual officer to ‘get it right’ every time. The alternative is to place greater responsibility on the rule-makers to develop clearer and more rigid requirements (which may or may not deliver better outcomes depending on circumstance and one’s perspective). The Court of Appeal has said that the application of strip searches requires rigorous adherence to the prescribed procedures.¹³⁶
190. It is a notable, though perhaps minor point of drafting, that while searches under Code A *must* be carried out in accordance that Code, people searched under Code B only *should* be searched in accordance with Code A. This would appear to give slightly less protection for searches carried out under the Criminal Justice Act 1988 Act s139B – a provision which is specific to school premises. This is in contrast with Code D 5.10 (searches of people detained at a police station for identify purposes) which states that any search or examination which involves the removal of more than the person’s outer clothing *shall* be conducted in accordance with Code C, Annex A, paragraph 11.

Police officers in schools

191. School-based police officers are now an established, though far from universal, phenomenon. The MPS reports having 489 school-based officers (including Safer Schools Officers or personnel bearing other titles that may cover police staff who spend some of their time on a school site). This includes 373 Safer Schools Officers, 84 Youth Engagement & Diversion Officers, and 32 Volunteer Police Cadet Coordinators.^{[137](#)}
192. The Child Q case highlights existing concerns that some members of the public have about the presence of police officers in schools. Prior to this high-profile case in London, community campaigns such as the Greater Manchester based *No Police in Schools* had already been established to challenge plans to increase schools-based police officers, and ultimately to return to a position where they were not present in schools.^{[138](#)}
193. Proponents of the Safer Schools Officers might highlight the intention to create more positive experiences of the police for children, and that close multi-agency co-operation between schools and police supports child safeguarding. They may even suggest that, had the SSO been physically available on the day that Child Q was searched, the outcome in that case may have been improved due to the availability of specialist skills, experience and established relationships.
194. Critics of the model highlight concerns that the approach is counterproductive to many of the police's aims, highlighting that:
 - For as long as children are having negative experiences with police outside of school, the presence of police in school will be negative for children (only changing the experiences *out* of school will deliver the impact being sought)
 - Contrary to the aim of safeguarding, it is a safeguarding risk, because children are less likely to share safeguarding information when they fear criminalisation
 - Children will be criminalised because of events that would have otherwise been dealt with by the school and parents (such as school fights).
 - Police presence only occurs in some areas, likely the most socially deprived, and is associated with a culture of low expectation
 - It feeds the "school to prison pipeline" which already disproportionately affects certain groups, such as Black children and children with disabilities^{[139](#)}
 - It creates a culture of suspicion, with children feeling constantly surveilled and monitored by police, turning schools into what looks and feels to children like a prison, making them feel unsafe
 - There are fears that police will be involved in enforcing behavioural punishments.

Oversight and recording

Lack of authorisation/supervision

“In my experience with police [at her previous schools], where there has been a suspicion of carrying drugs or a weapon, and police found it necessary to conduct a search, it would only be a ‘pat down’... I have never known any more than that on site or known a student to be taken off site.”

Teacher, Child Q Safeguarding Review¹⁴⁰

195. There is a general lack of a requirement for authorisation across the searching framework, notably in relation to children and vulnerable adults. Technical changes to the PACE Codes do not automatically translate into practice. Without authorisation and supervision, there can be significant differences in practice. This is relevant to the issue of understanding and use of rights because it makes it difficult for people to know what to expect.
196. Code A states that, *“Police supervisors must monitor the use of stop and search powers by individual officers to ensure that they are being applied appropriately and lawfully”*. However, the examples given are focused on supervision after the event, for example examination of documented grounds, asking an officer to account for their conduct, and via complaints.¹⁴¹
197. For the most invasive searches under Code A, which expose intimate body parts, the College of Policing APP states that an officer must ‘consult’ a supervisor prior to the search (unless they can’t within a reasonable timeframe). However, this is not reflected in Code A, under which neither consultation nor authorisation is required before officers conduct searches, even for the most invasive searches under Code A (which expose intimate body parts) and the most vulnerable members of the public.
198. Custody strip searches under s54 PACE are authorised by the custody officer – normally of the rank of Sergeant. This applies irrespective of the level of invasiveness, age or other vulnerability of the person being searched. However, HMIFRS custody expectations state that, *“For children, a strip search should be authorised by an officer at the rank of inspector or above.”*¹⁴²
199. Supervision is relevant not only in advance of searches but as an opportunity to reflect, process, and learn. The approach of the Mental Health Act 1983 Code of Practice (in relation to personal searches of people detained under that legislation) is instructive. It states that:¹⁴³
- *“A post-incident review should follow every search undertaken where consent has been withheld”*
 - *“There should be support for patients and for staff who are affected by the process of searching. This may be particularly necessary where a personal search has had to proceed without consent or has involved physical intervention”*
 - *“The exercise of powers of search should be audited regularly and the outcomes reported to the hospital managers”*.

Records and lack of data

200. There is no nationally held data on how many MTIP or custody strip searches the police conduct, who is searched, why they are searched, where they are searched, who is present when they are searched (including the number and sex of officers, and the presence or otherwise of an appropriate adult), or the outcomes of the search. The Home Office has asked police forces to provide data on strip searches on a voluntary basis.
201. There are questions over the quality of data recorded by forces. During the Children's Commissioner review, the MPS "*identified problems in data quality due to double-counting of children and the inclusion of both pre-arrest and in-custody searches*" leading to all data for 2021 being removed from the analysis¹⁴⁴.

Audio and visual recording

202. The use of audio and visual recording in policing has been widely accepted as beneficial, from custody to the street. Police officers have welcomed the use of body worn video as a way of protecting them from vexatious complaints. It provides protection from (or at least evidence of) ill treatment by police. For example, Dr Konstancja Duff was given an apology and compensation by the Metropolitan Police Service after she obtained [CCTV footage](#) of officers making sexist and derogatory comments about her.¹⁴⁵
203. However, it can be a double-edged sword. High-profile cases have generated public concern about the potential misuse of recorded media. For example, two police officers were jailed after they were found to have shared photos of the bodies of Nicole Smallman and Bibaa Henry, having been assigned to guard the scene where they were murdered.¹⁴⁶ The extent to which these cases are representative of policing across England and Wales is in many ways irrelevant. They are part of the public consciousness and so will affect people's views about audio and visual recording of searches, especially where intimate body parts are exposed and manipulated.

"I was also wondering if the officers body cameras were on while my child was stripped of her clothes, are they re-watching it?"

Child Q's Mother¹⁴⁷

204. It is recognised that, as the controllers of such sensitive audio and visual personal data, the police face a significant challenge in achieving both accountability and privacy, or where this is not possible to at least strike the optimal balance between them¹⁴⁸. PACE provisions that provide clear requirements, even if they require significant change, will ultimately support police in achieving that goal.

"The legitimacy of video recording other specific locations on police premises is also subject to debate. For example, CCTV may appear to safeguard against abuse in rooms where strip searches take place, but at the same time, due consideration should be given to the protection of a person's privacy and dignity".

Penal Reform International / Association for the Prevention of Torture¹⁴⁹

205. There are parallels here the balancing act struck by Code C 8D, in relation to CCTV in cells and the privacy of toilet areas in those cells^x. It states, *“In cells subject to CCTV monitoring, privacy in the toilet area should be ensured by any appropriate means and detainees should be made aware of this when they are placed in the cell. If a detainee or appropriate adult on their behalf, expresses doubts about the effectiveness of the means used, reasonable steps should be taken to allay those doubts, for example, by explaining or demonstrating the means used”*.

206. In relation to stop and search, Code A does not include provisions concerning audio/visual recording. It simply requires that an MTS (e.g. removal of a t-shirt) must be done *“out of public view”*.¹⁵⁰ However, the APP encourages the use of body worn video: ¹⁵¹

- *“Where available, body-worn video (BWV) should be used in accordance with force policy. The standard approach is that BWV should be activated, so as to capture all relevant information in the time leading up to the person being detained for a search, the conduct of the search itself and the subsequent conclusion of the encounter.*
- *Where an EIP search takes place, officers should record the encounter in accordance with force policy, but should cover the camera (or direct it away from the person) whenever intimate body parts are exposed. Audio recording should remain activated. The officer should explain to the person that the recording is for the protection of all parties and reassure them that intimate parts will not be filmed.*
- *Retention periods for BWV footage are a matter of force policy due to variation in capabilities and cost implications. When developing their retention policy, forces should bear in mind that search records can be requested for up to three months under paragraph 3.8(c) of Code A”.*

207. In this regard, the APP leaves much to local force policies, so application will by definition be variable. The MPS informed the Child Q safeguarding review that there is no Body Worn Camera recording of the Code A strip search (MTIP search) of her being searched¹⁵².

208. Code C is also silent on recording. An absence of cameras could be inferred by Annex A 11 (b) stating that, *“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”*. However, only the custody APP on CCTV highlights this as a reason to avoid video/audio recording. It states that, *“Forces should not generally use cells equipped with CCTV to conduct strip searches... There may be occasions when recording a strip search via CCTV is desirable for the protection of staff, but officers must consider PACE Code C Annex A paragraph 11(b). The recording of the search must be shown to be necessary and proportionate in the circumstances”*.¹⁵³

^x PACE Code C 8D: *“In cells subject to CCTV monitoring, privacy in the toilet area should be ensured by any appropriate means and detainees should be made aware of this when they are placed in the cell. If a detainee or appropriate adult on their behalf, expresses doubts about the effectiveness of the means used, reasonable steps should be taken to allay those doubts, for example, by explaining or demonstrating the means used”*.

209. It is standard practice in police custody is to conduct strip searches in rooms with no CCTV coverage, in line with the APP. This is an intentional policy with the stated rationale of preserving a person's dignity and privacy. While perhaps a well-intentioned policy, it could be said to be open to abuse, both in terms of lack of protection for suspects and accountability of police, and due to a lack of protection for officers while conducting a sensitive procedure that puts them at high risk of complaints. It is notable that this APP acknowledges the potential value of audio/video recording of a search only in relation to the protection of staff/officers – *not* the protection of the person being searched.
210. It is not clear why a different approach to recording is taken by the APP in relation to custody searches and stop and search. There may be a reasonable rationale based on the two different contexts, or it may simply be a result of the two being developed independently, and in light of different technologies (CCTV vs BWV) the availability of each has developed at different speeds.
211. Notably absent from both is the concept of choice for the member of the public being given informed choice over video/audio recording. This may be a challenging concept for policing, both philosophically and practically. However, it would be in line with Skinns and Sorsby's findings on the positive impact of detainee autonomy¹⁵⁴ in police custody.¹⁵⁴ It would also contribute to several principles in the forthcoming NPCC National Strategy for Police Custody (2022), notably transparency, dignity and respect.

¹⁵⁴ Skinns and Sorsby define autonomy as referring to the need to respect people's capacity to make autonomous choices. They highlight that, despite the apparent contradiction, those held in police custody still maintain the right to appropriate autonomous choices, with indignity arising where that need is not met.

Purpose and conduct

Possession of drugs

212. As stated above, suspicion of drug possession was recorded as the reason for 69% of stop and searches and accounted for 75% of their total increase between the year ending March 2018 and the year ending March 2021; and analysis of disposal data indicates that this is driven heavily by searches for cannabis (see [Alternatives to strip and intimate searches](#)). Of clear relevance are decisions by both politicians and senior police officers regarding the appropriateness of responding to cannabis possession via the criminal justice system.
213. The reason given for the search of Child Q was that teacher's smelled cannabis. The IOPC's position is that the smell of cannabis alone is not enough to constitute reasonable suspicion and therefore an acceptable basis, for a stop and search, and that additional factors are required. ¹⁵⁵ This has been adopted by the MPS, at least as a matter of policy. ¹⁵⁶

"We found the officer's grounds for the search of Emmanuel Arthur in Euston – under section 23 of the Misuse of Drugs Act – were not reasonable as the use of the smell of cannabis as a single ground is not good practice as set out in the College of Policing's Authorised Professional Practice on stop and search"

IOPC upholds cyclist's stop and search complaint against the MPS¹⁵⁷

214. However, as highlighted in the stop and search APP, this is not reflected in Code A, or the Misuse of Drugs Act 1971 s23(2) which refer to "*reasonable grounds for suspicion*" and there are no stated cases on the issue. ¹⁵⁸ This raises a point of confusion about whether there may be other single factors that would not be considered reasonable grounds.

Punishment

215. There is a sense amongst some members of the public that strip search powers, whether under stop and search or in custody, are sometimes used as a form of control and even punishment – a purposeful demonstration of force and an abuse of power.
216. This is not without reason. The case of Dr Duff is illustrative^z. She was arrested after handing a child a 'know your rights' card. During her ordeal in custody, the custody sergeant was recorded on CCTV saying, "*Tell them to put their back into it, do I have to come and do it? ... Resistance is futile... By any means necessary, treat her like a terrorist, I don't care*". This is not new and not limited to police (it also includes long-term custodial institutions). HMIFRS have also documented a case of the *threat* of a search being used to exert power over a member of the public. ¹⁵⁹

^z See [Audio and visual recording](#)

"It is well-established that the threat and reality of strip-searching is punitive, administered as an extension of discretionary power, and rarely associated with evidenced risk or imminent danger".

**Professor Phil Scraton, Director, Childhood, Transition and Social Justice Initiative,
Queen's University Belfast, 2013¹⁶⁰**

Equality

Ethnicity

217. Ethnicity is the area of inequality most closely associated with stop and search (if not yet addressed). The House of Commons Library states that, *"The incident with Child Q follows long-standing debate about the use of stop and search on Black people... which have contributed to allegations of institutional racism...within the police"*¹⁶¹. In the year to March 2022, Black or Black British people were searched at a rate 6.2 times higher than White people across England and Wales. Asian or Asian British people were searched at a rate 2.1 times that of those White people.¹⁶² The House of Commons Library also states that, *"Those opposed to stop and search argue that a history of poor use and long-standing ethnic disparities demonstrate that it is a fundamentally flawed police power. Black people experience the highest search rate at 53 per 1,000 compared to a rate of 7.5 per 1,000 for White people. HMICFRS says no force "fully understands the impact of the use of [stop and search] powers" and "no force can satisfactorily explain why" ethnic disproportionality persists. It is widely acknowledged that this damages police community relations and there is growing recognition of the "damaging impact" and potentially traumatic impact that it can have on individuals and collectively for communities"*.¹⁶³ The equality impact assessment for the relaxation of Section 60 (no suspicion) safeguards illustrates the relative impact of race.¹⁶⁴
218. The smell of cannabis as lone grounds for a search particularly affects Black people, with cannabis possession enforcement activities being a key driver of disproportionality through to prosecution and sentencing.¹⁶⁵
219. The Children's Commissioner found that Black children were disproportionately represented in the MPS data on MTIP (Code A strip searches exposing intimate parts) 2018-2020, stating that, *"58% of boys who were strip searched were Black"* when only 19% of all 10-17 years olds in Greater London were Black in 2021¹⁶⁶. In relation to appropriate adults however, the Children's Commissioner found that, *"Ethnicity does not seem to impact the likelihood of an Appropriate Adult being present. Of all boys who were strip searched without an Appropriate Adult present, 57% were Black"*.¹⁶⁷
220. Figures obtained by the Daily Mail from three police forces (including the MPS, which is likely to dominate the data) indicated that black children accounted for 48% of children subjected to a Code A MTS strip search in the last five years. In relation to the more intrusive (Code A MTIP) conducted on children by the MPS in the same period, 58% were of black children:¹⁶⁸
221. While statistics are critical to evidencing the scale of the issue, they do not convey the impact on individuals, families, and communities in the way that individual testimony does.

“At the end of day, things like that happen, is it because of her skin, hair. Why her, now looking at the future, will she be comfortable?”

“Consider what is happening now diversity and racial equality around Black Lives Matter and what is happening to women out there.”

“Why doesn’t my daughter deserve the same rights as every other child, is this because they think she is a young girl, with no respect for her parents or adults and no fear of consequences or because she is a black child living in a poor city area.”

Child Q’s Mother¹⁶⁹

“The family do not believe that the officers would have treated a Caucasian girl child who was on her monthly periods in the same way.”

“Child Q was racially profiled due to her being black and her extreme large head of locks.”

Child Q’s Aunt¹⁷⁰

222. Having originated in the United States around 2008, ‘adultification’ is now a recognised phenomenon in relation to child protection and safeguarding in the UK¹⁷¹.

“The latest research into police strip-searching of children by the Childrens Commissioner is shocking. Over 50% of those subjected to this are black boys who, along with Black girls, are treated like and assumed to be adults by the system.”

Black Equity Organisation¹⁷²

223. Child Q’s safeguarding report stated, *“One feature believed to have a significance to the experience of Child Q is that of adultification bias. This concept is where adults perceive Black children as being older than they are. It is a form of bias where children from Black, Asian and minoritised ethnic communities are perceived as being more ‘streetwise’, more ‘grown up’, less innocent and less vulnerable than other children. This particularly affects Black children, who might be viewed primarily as a threat rather than as a child who needs support”.*

224. While awareness of the term ‘adultification’ may be growing within policing, this does not mean there is shared understanding of the word. For example, police may understand it to refer to children having ‘grown up too quickly’ due to their experiences. This conflicts with the NPCC national strategy which states, “*it is crucial that in all encounters with the police those below the age of 18 should be treated as children first*”.¹⁷⁴ It reinforces the concept of the ‘street savvy’ child; with racial disparity being the result of intelligence led policing, not racial profiling. It is unclear what proportion of police officers would take each view – or have even been made aware of the term adultification. In an interview with Patricia Clarke of Tortoise Media, a policing commentator and retired MPS police officer with 30 years’ experience, was asked whether he acknowledged racial profiling might play a part in strip searches of children, and in particular whether something called “adultification” might be at play.

“Yeah, I think there’s some truth in that. I policed throughout London in my career, predominantly south London. A large-scale Black community in many areas I policed – I think they are a bit more streetwise and savvy than some White kids.

I think it’s evening out, but in my experience that definitely was the case. Are they treated slightly differently? Possibly, but I think again, they’re treated because of how they are, not because of... when I was policing, I didn’t treat someone according to the colour of their skin, I treated them for how they presented themselves to me.

Yeah, but I think that almost... that comes from society. I think society puts that onus on them, this isn’t down to policing. I think society puts an onus on some Black kids to grow up quicker, to be a bit more streetwise, and to almost achieve higher. And I think that they’re society issues.

Yeah, I love this term “children” because honestly you deal with some 16, 17 year olds and they are more adult than some adults”.

Graham Wettone, author and policing commentator¹⁷³

Age

225. The safeguarding review of the Child Q case found breaches of the UN Convention of the Rights of the Child (UNCRC) because “*The decision to strip search Child Q was insufficiently attuned to her best interests [Article 3] or right to privacy [Article 16].*”

226. The Courts have recognised the special position of children under the United Nations Convention on the Rights of the Child in relation to strip searches, and highlighted that “*children in custody are vulnerable and special care is required to protect their interests and well being*”.¹⁷⁴

227. The PACE Act 1984 and Code C refer “*juveniles*”. The internationally recognised term “*children*” is used in PACE s57, Code A, Code D, the Terrorism Act 2000 and its codes.

“As a signatory to the convention, the UK government and its agencies are committed to upholding the rights of children established in articles and protocols and clarified in the UN committee's General Comments. A central obligation, particularly for those held in custody, is the principle of the "best interests of the child". Children also have a right to privacy and bodily integrity. The extent of strip-searching demonstrates the neglect of best interests and the denial of privacy.”

***Professor Phil Scraton, Director, Childhood, Transition and Social Justice Initiative,
Queen's University Belfast, 2013¹⁷⁵***

228. Searches of children could also engage several other UNCRC articles, including:

- Article 12 (respect for the views of the child)
- Article 19 (protection from violence, abuse and neglect)
- Article 37 (inhumane treatment and detention)
- Article 40 (juvenile justice).

229. Code A 1.1 states that, *“The Children Act 2004, section 11, also requires chief police officers and other specified persons and bodies to ensure that in the discharge of their functions they have regard to the need to safeguard and promote the welfare of all persons under the age of 18”*. This is absent in Code C 1.0, which does not refer to the Children Act 2004 at all.

230. Code A 1BA states that, *“Safeguarding considerations will also apply to other persons aged under 18 who are stopped and searched under any of the powers to which this Code applies”*. Code C does not refer to safeguarding considerations.

231. The Government *“remains firmly committed to maintaining a distinct youth justice system”* based on a principle of ‘child first’. It is not clear that the current approach to the searching of children, which is characterised by limited ameliorations of a system designed for adults, supports that commitment.¹⁷⁶

232. The legal duty regarding age does not only apply to children. Older people are protected.

Disability

233. The police regularly interact with people who have learning disabilities, psychosocial disabilities (including mental ill health) and/or are neurodiverse. Sometimes this is knowingly, sometimes not. Some conditions and characteristics place people at higher risk of coming into contact with the police. For example, several studies have demonstrated a high level of brain injury amongst people in the criminal justice system.¹⁷⁷

“I’m also worried because I’m hearing things about children with special educational needs and autistic children, for whom this would be a deeply traumatic experience.”

Dame Rachel De Souza, Children’s Commissioner for England¹⁷⁸

234. Searches could engage several articles under the UN Convention on the Rights of Disabled People:

- Article 5 – Equality and non-discrimination
- Article 12 – Equal recognition before the law
- Article 13 – Access to justice
- Article 14 – Liberty and security of person
- Article 15 – Freedom of torture or cruel, inhuman or degrading treatment or punishment
- Article 22 – Respect for privacy.

235. Research indicates that ‘vulnerable people’ (as defined by PACE Code C) are significantly under-identified in police custody, that even where they are identified an appropriate adult is not always secured, and that identification is even lower for voluntary interviews.¹⁷⁹ It is reasonable to assume that officers conducting stop and search, devoid of the support available in custody, have difficulty assessing for PACE vulnerability. This raises a question as to the value of the appropriate adult safeguard for MTIP searches, unless paired with an effective way for officers to identify the people to whom it must be applied.

236. The PACE codes broadly apply safeguards based on risk. This combined both the vulnerability of the person and jeopardy posed by a particular process. For example, an appropriate adult is required for all children and vulnerable adults, but they are not required to be present for every moment of a detention. Police awareness of ‘vulnerability’ has grown significantly in the past few years, particularly in relation to some groups. For example, there is much greater recognition that autistic people’s experience of a police interaction may differ significantly from the expectations of a neuro-typical officer. From there, it is a short step to considering that, as a result of ‘vulnerability’, one person may be more negatively affected by an MTS search, than another might be by an MTIP search. Yet there is no recognition that an appropriate adult might be needed for a ‘less invasive’ search, such as an MTS search that does not expose intimate parts, as a result of a person’s vulnerability.

237. The stop and search APP does perhaps hint at the idea that officer might secure appropriate adult even where not explicitly required. It states that:

- *“...if the officer considers that an appropriate adult needs to be present for the search and no such adult is available at the scene, they should make arrangements for an appropriate adult to attend...”¹⁸⁰*
- *“Officers should make every effort to ensure that the person’s vulnerability does not prevent them from understanding why they are being searched. They should talk to the person and check their understanding. Where there is a doubt as to the person’s ability to understand, officers should consider seeking assistance from a parent, guardian or carer, an interpreter (including of sign language) or any other person deemed appropriate in the circumstances to reduce any negative impact”.¹⁸¹*

238. A House of Commons Library briefing states that, *“The incident with Child Q follows...a series of recent public controversies, including the murder of Sarah Everard and policing of her vigil, which have contributed to allegations of...systemic misogyny within the police”*.¹⁸²
239. In November 2022, HM Inspectorate of Constabulary, Fire and Rescue Services published their inspection of vetting, misconduct, and misogyny in the police service report, which was commissioned in the wake of Sarah Everard’s murder. The lead inspector, Matt Parr, said: *“We concluded that a culture of misogyny, sexism, predatory behaviour towards female police officers and staff and members of the public was prevalent in all the forces we inspected, which is a depressing finding. We believe that the poor behaviour towards women we were told about is prevalent in many – if not all – forces.”*¹⁸³ Allegations from female police officers ranged from sexual assault to *“male officers making a point of stopping cars driven by women they regard as pretty, a practice they referred to as ‘booty patrol’”*.¹⁸⁴
240. Women and girls are not the same as men. While the bodies of each individual woman and girl is unique, their bodies are different to those of men in general. Their experiences are not the same as men. While individual experiences are unique, women and girls live in a society that treats them differently to men. The bodies of women and girls are treated differently by society than those of men. Their bodies are sexualised in a way that male bodies are not. Even the parts of their bodies that they share with men, such as nipples, cannot be thought of in the same way in terms of whether they are ‘intimate’.
241. The treatment of Child Q, in not being given the opportunity to change her sanitary pad, is not new in terms of the treatment of children in the justice system. In 2006, the Carlile Inquiry heard from a 16-year-old girl that *“she had been recently strip searched. Her sanitary pad, which was ‘full of blood’, was examined in front of her. Staff were wearing plastic gloves. The girl was not given a clean pad to wear afterwards”*.¹⁸⁵
242. Guidance from the College of Policing on the conduct of searches states that, *“Special consideration should be given to menstruating detainees. Custody officers should ensure that detainees have an opportunity to indicate, privately to a female officer, whether they are menstruating. Where a detainee has menstrual products removed as part of a strip or intimate search, they should be offered a replacement without delay”*.¹⁸⁶ However, this is not included in the PACE Act or Codes.
243. A strip search is an obvious trigger for trauma related to past sexual abuse. ONS statistics indicate that women were more likely than men to have experienced multiple types of sexual abuse (39% compared with 26%)¹⁸⁷. In the year ending March 2019, the Crime Survey of England and Wales estimated that women were around three times as likely as men to have experienced sexual abuse before the age of 16 years (11.5% compared with 3.5%).¹⁸⁸
244. There are also equality issues for males. Notably, according to MPS data analysed by Gavin Hales (Police Foundation), even when controlling for offence type, women and girls are less likely to be strip searched in custody than men and boys. For example, for “weapons only” offences, the strip search rate for boys (15.9%) is more than twice as high as for girls (7.7%).¹⁸⁹ Hales asks, *“Are the gender and age differences in strip search decisions defensible? To what extent do they reflect factors such as objective differences in risk factors, the availability of female officers search female detainees, different assumptions/beliefs about the gendered and age related nature of vulnerability/dignity/risks, and differences in information about detainees?”*

Gender

245. A strip search is an obvious trigger for trauma related to past sexual abuse. Statistics regarding sexual abuse suffered by trans people are relatively limited. However, the Crown Prosecution Service states that, *“Research indicates that 62% - 73% of transgender people have experienced harassment and violence because they were identified as transgender. This included verbal abuse, threatening behaviour, physical and sexual assault”*. ¹⁹⁰
246. Whether a person has experienced, is experiencing, or is planning to undergo physical changes to their body – including their genitalia, is an important factor in considering the potential impact of a search and what could be considered ‘intimate’. Trans people might find revealing some of their body parts (especially those which relate to sex/gender) a particularly traumatic experience due to gender dysphoria^{aa}.
247. The PACE approach to searches must also support the rights of those police officers who are trans, intersex and non-binary. Code C Annex L note L5 makes clear that chief officers are responsible for providing operational guidance for the deployment of officers and staff in relation to searches, taking into account the Equality Act (2010).

Intersectionality

248. While some of the protected characteristics have been individually considered in this paper, it is important to see them in the context of intersectionality. Individual people within any single group hold a wide range of characteristics, some protected and some (such as poverty) not protected by law. The mixture of these characteristics, with the context of any given social situation, can affect the likelihood of police powers being applied, as well as their experience (for better or worse). This includes the context of a police search, of any extent. The level of trauma experienced by two people as a result of what, on the face of it, is exactly the same experience, can be radically different. The same process does not equal the same experience. The complexity of intersectionality has to be accepted.
249. For example, while race is a major factor in adultification, it is not necessarily the only one – it is an example of intersectionality. Davis and Marsh (2020) define adultification as *“The concept of adultification is when notions of innocence and vulnerability are not afforded to certain children. This is determined by people and institutions who hold power over them. When adultification occurs outside of the home it is always founded within discrimination and bias. There are various definitions of adultification, all relate to a child’s personal characteristics, socio-economic influences and/or lived experiences. Regardless of the context in which adultification take place, the impact results in children’s rights being either diminished or not upheld.”*¹⁹¹
250. In MPS custody (not stop and search), Black and mixed heritage (taken together) adult males are strip searched at 1.5x the rate of their White counterparts, and at a higher rate for all offence groups. However, this rises to 1.8x for children (1.6x for Asian children). By contrast, Black women and girls are strip searched slightly less often overall (0.9x and 0.8x the White rates respectively). However, Asian and Black or Mixed heritage girls are more likely than White girls to be strip searched for drugs only (1.5x and 1.34x respectively).¹⁹²

^{aa} Gender dysphoria is a term that describes a sense of unease that a person may have because of a mismatch between their biological sex and their gender identity. This sense of unease or dissatisfaction may be so intense it can lead to depression and anxiety and have a harmful impact on daily life. See www.nhs.uk/conditions/gender-dysphoria/

251. Both PACE Code A 1.1 and Code C 1.0 state that, *“Powers to stop and search must be used fairly, responsibly, with respect for people being searched and without unlawful discrimination. Under the Equality Act 2010, section 149, when police officers are carrying out their functions, they also have a duty to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation, to advance equality of opportunity between people who share a ‘relevant protected characteristic’^{ab} and people who do not share it, and to take steps to foster good relations between those persons”*.
252. Code C 1AA provides a link to the Government’s Equality Act guidance^{ac}, which is absent from Code A 1A (the equivalent provision in Code A).
253. Although the stop and search APP does not use the term, it does recognise intersectionality. It states that, *“Consideration should be given to vulnerability factors when assessing proportionality of impact, and the necessity of both the search itself and extent of the search. A transgender person or a person in a wheelchair, for example, may find a search involving exposure of intimate parts of the body both difficult and humiliating”*.¹⁹³
254. The stop and search APP states that, *“The person to be searched may be vulnerable on grounds of age, gender, mental ill health or physical or learning disabilities”*. It is not sufficiently clear that these are examples rather than an exhaustive list. The College clearly does not intend to exclude neurodiversity for example, because the APP also includes the example of, *“A person on the autistic spectrum who cannot tolerate any physical contact may have an extreme reaction to being touched by a police officer”*. This touches on the wider issue of what the term ‘vulnerability’ means in policing. For example, the definition of a vulnerable person under PACE code C does not include gender, while the APP list does.

^{ab} The relevant protected characteristics are: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

^{ac} <https://www.gov.uk/guidance/equality-act-2010-guidance>

Ideas for change

Limitations

255. In NAAN's view, this paper demonstrates that there are sufficient issues related to searches, to justify a strategic review of PACE search powers and safeguards, as well as training and guidance in relation to the conduct of, and alternatives to, invasive searching.
256. Many of the issues outlined above are complex and NAAN does not claim to have all the solutions. To develop effective solutions, it will be necessary to engage with a wide range of communities, including those directly and particularly affected by specific issues. Other bodies have the resources and mandate to provide a more detailed analysis and recommendations for change. The options below are an initial contribution to the conversation. They are not necessarily recommendations. They are not comprehensive, even in relation to the issues identified by this paper. Neither do they purport to be a coherent strategy. Some are more or less desirable, and some may be mutually exclusive. They are simply a contribution to a wider discussion with a range of stakeholders.
257. It is necessary to recognise the current state of the current appropriate adult sector. Appropriate adult schemes are facing an extremely challenging time fulfilling the current expectations placed upon them. In the aftermath of Covid, with high inflation and low unemployment, both volunteer and paid schemes are having difficulty recruiting sufficient appropriate adults. At the same time, demand for appropriate adults for adults is increasing, as policing improves the identification of vulnerability, and more attention is being paid to PACE compliance in voluntary interviews. At the same time, the lack of any statutory duty to provide appropriate adults is undermining funding arrangements, resulting in the loss of some schemes. There is no slack in the system. Changes which increase demand, even if they simply amount to better compliance with existing rules by police, will not be deliverable unless properly funded.

Alternatives to strip and intimate searches

258. Strip and intimate searches are intrinsically and inescapably problematic both for the police and the people being searched. The best solution is avoidance.
259. Legislative or statutory code provisions could embed content from existing guidance from the APP on conflict management skills. This includes an example “five-step appeal” for “dealing with resistance”.¹⁹⁶
- *“Simple appeal – ask the person to comply with your request.*
 - *Reasoned appeal – explain why the request has been made, what law (if any) has been broken, and what has caused the request.*
 - *Personal appeal – remind the person that they may be jeopardising things that are high priorities to them (eg, loss of free time if arrested, loss of money, loss of income, possibility of a criminal record, loss of respect of their partner and family).*
 - *Final appeal – tell the person what is required and use a phrase that means the same as the following: ‘Is there anything I can reasonably do to make you cooperate with me/us?’*
 - *Action – reasonable force may be the only option left in the case of continued resistance”.*
260. Saqib Desmukh^{ad} suggests recasting police searches of children within the framework of safeguarding.¹⁹⁴ This could be applied to vulnerable adults. Police see themselves as the lead agency in protecting vulnerable people from harm that is not caused by police (i.e. self-harm and that caused by third parties). However, there is a wider perspective which encompass the negative impact that police interactions can and do have, as reflected in the appropriate adult’s statutory purpose of ‘safeguarding’ the interests of children.
261. While the contexts of Code A and Code C are different to those in prisons and youth custody, the principle of investing greater time (as opposed to more coercive approaches) is valid, especially with children and vulnerable people.
262. Invest in both people *and* technology. The latter can only assist and not replace the former. Effective human interaction is the most effective tool in avoiding intrusive searches. The College of Policing has developed a new two-day training curriculum to address issues around de-escalation. The training is expected to be completed by all forces by late 2023.¹⁹⁵ This will need to be maintained due to turnover of staff, and there will need to be sufficient staffing (including those in delivery and oversight roles) to ensure it translates into practice. Policing can learn from youth custody, which combines a ‘rub down’ search, scanning with a hand-held metal detector, and searching using a body orifice scanning system (Boss) chair.¹⁹⁶ Sufficient staff allows for wider use of constant observation. In the case of children and vulnerable people, this would allow for the arrival of an appropriate adult, and ideally a trusted person such as a parent or partner.
263. Subject to consent, there may be opportunities for greater use of medical professionals to conduct searches.

^{ad} Saqib Deshmukh is Interim Chief Executive of the Alliance for Youth Justice, a former Director of Young People and Families at Hackney CVS, and deeply familiar with the Child Q case.

Appropriate adults and parents

I do not believe that any child should be strip searched without an Appropriate Adult present, apart from in the most exceptional cases, and only where there is immediate risk of harm to the child or to someone else.

Dame Rachel de Souza, Children's Commissioner for England²⁰⁰

264. Amend Code C Annex A 11(c) to replace/redefine “cases of urgency” as “the most exceptional cases, where there is immediate and significant risk of serious harm to the person or others, and no alternative is practicable”.
265. Add a provision to Code C Annex A 11 requiring that, before carrying out a strip search in the absence of an appropriate adult (in relation to a child or vulnerable person), the police must:
- consider the safeguarding needs of the person and the likely impact of a strip search
 - assess whether any alternative to a strip search is practicable
 - assess whether there is immediate and significant risk of serious harm to the person or others
 - assess whether any actions could be taken to make it practicable to await the arrival of an appropriate adult (for example placing the person under constant observation)
 - record the results of the that risk assessment and (as the case may be) the officer’s rationale as to why it was necessary to do so.
 - secure authorisation by an officer of Inspector rank or higher.
 - notify an officer of Superintendent rank or higher.
266. Clarify in Code C Annex A 11 that, with the exception above, there must be an appropriate adult present for any strip search of a child or vulnerable person, not just strip searches that expose intimate body parts (in line with existing Code C Annex E paragraph 12).
267. Clarify/extend the requirement for an appropriate adult to Code A (MTS) strip searches that do not expose intimate parts of children and vulnerable adults.
268. Clarify the purpose, role, and activities of the appropriate adult in the specific context of searches both in Code A and C, identifying any differences as they relate to family members, and people previously known or unknown to the person.
269. Either extend the ability for children and appropriate adults to agree that the AA will not be present at a search to vulnerable adults, or remove it for children.
270. Strengthen the links between appropriate adult provisions in Code C, Code A and terrorism codes of practice, ensuring that the latter give clear requirements for police on safeguarding and the role of the appropriate adult, in relation to both children and vulnerable adults.
271. Amend PACE Code C section 4, to make clear that seizure of clothing must be done in compliance with Code C Annex A (strip searching), in line with the judgment in *PD vs The Chief Constable of Merseyside* (2015).

272. Clarify the meaning of “specifically requested” in PACE Code A, Code C, and both Terrorism Act codes of practice so that is clear whether appropriate adults from an organised scheme must be the same sex in order for the search to be compliant.
273. Replace references to “opposite” sex, with “not the same” sex or “a different” sex.
274. Ask children what control they would like over the presence of an appropriate adult at invasive searches.
275. Consider the impact of gender as distinct from sex, in terms of the impact of people being searched.
276. Amend Code A to require police to:
- notify parents in advance of a Code MTIP search of a child, unless there is immediate and significant risk of serious harm to the child or others.; or
 - take reasonable steps to notify parents in advance of an MTS search of a child, or an MTIP search of a child where there is imminent and significant risk of serious harm to the child or others.
 - notify parents following any MTS or MTIP search of a child.
277. Amend Code C to require the custody officer to:
- notify parents in advance of a strip search of child, unless there is imminent and significant risk of serious harm to the child or others and it is not possible to do so (in which case it must be done as soon as is practicable)
 - notify parents in advance of an intimate search for an injurious item (searches for Class A drugs are already addressed by the need for consent).
 - advise on the likelihood of a strip or intimate search when contacting a person responsible for the child’s welfare and an appropriate adult (who may be the same person) as soon as is practicable following the authorisation of detention.
 - notify parents following any strip or intimate search of a child
 - where vulnerable adult requests or gives informed consent, notify an appropriate/nominated third party who has an interest in their person’s welfare (e.g. a family member, who may or may not also be the appropriate adult).
278. Any differential between the safeguards for children and vulnerable people, should be fully explained and the reasons evidenced.
279. Ensure that organised appropriate adult services are sufficiently and sustainably funded to enable police to comply with the current (and any future) PACE provisions and guidance. In particular, this should be considered in light of:
- Plans to improve police compliance with existing rules
 - Clarifications on interpretations of existing rules which may differ from common practice, including the requirement for an AA, and the sex of an AA.

Intimacy, trauma and consent

280. Amend PACE 1984 to introduce a statutory definition of a strip search, and of a strip search that exposes intimate parts (noting the existing definition of a strip search, see [Terrorism Act 2000](#)).
281. Define what constitutes an intimate body part for the purposes of Code C and Code A, including whether and how this is affected by sex and/or gender (and link to it from Code C section 4 paragraph 4.1(b))
282. Reject the ruling in *Owens v Chief Constable of Merseyside*. In the short-term, amend the PACE and TACT 2000 statutory codes of practice to return to the position that that any physical contact with an intimate body part constitutes an intimate search, as prior to the 2021 judgment. In the longer term, amend PACE 1984 and the Terrorism Act 2000 to place this on an explicit legislative footing. Failing that, legislate that any physical contact with a body orifice is an intimate search and define what constitutes a body orifice.
283. Develop specific guidance relating to the searching of children and vulnerable people, ensuring that safeguarding and best interests are the primary factor.
284. Develop APP to describe the rationale for safeguards related to searches, explaining the risks to both policing and the public, with specific reference to children and vulnerable people.
285. Add a note for guidance to Code C Annex A to define what does and does not constitute an intimate body part, including whether and how this is affected by sex and/or gender (and link to it from Code C section 4 paragraph 4.1(b))
286. Add a note for guidance to Code C Annex A to define what define what constitutes a body orifice and link to it from Annex A 1.
287. Building on Code A 1BA, amend Code A and Code C to refer to reflect a safeguarding approach and trauma-informed practice for all, with particular reference to children (all under 18) and vulnerable people of all ages.
288. Ensure that all people (and particularly the most vulnerable groups) who are subjected to a search have access to appropriate aftercare (recognising that police are not the right agency to provide this), irrespective of the location that the search took place.

“Child Q was searched by the police and was asked to go back into the exam without any teacher asking her about how she felt knowing what she had just gone through”.

Child Q’s Mother

289. Expand the range of searches that require the consent of the individual.
290. Clarify the legal status of ‘voluntary searches’ given that an officer must not search a person, even with his or her consent, where no power to search is applicable.
291. Ensure access to legal information in all cases of searching, and consider how access to legal advice could be achieved prior to the widest possible range of searches.

Understanding and use of rights

292. The Aims of the Department for Education's Citizenship programme of study (key stages 3 and 4) include ensuring that "all pupils develop a sound knowledge and understanding of the role of law and the justice system in our society and how laws are shaped and enforced".^{[197](#)} As part of citizenship, schools could invest in educating children on police powers and their rights. This would address the challenges associated with children such as Child Q not being able to challenge incorrect practices
293. In response to the recent revisions to the Department for Education's statutory guidance, schools and colleges can ensure that all relevant staff (not only those teaching citizenship, but in particular Designated Safeguarding Leads) are well informed about police processes, children's rights and the role of the appropriate adult.^{[198](#)}

Location

294. Add a provision to Code A to the effect that a search of any person should be carried out in an appropriate location, being one that is likely to minimise the harm or distress caused to an individual. Include a requirement to ask the person where they would prefer to be searched, and for their answer to be taken into account.
295. Add a provision to Code A stating that any search of a child under Code A should be carried out in a 'child friendly location' for all children
296. Develop evidence-based APP guidance to support officers deciding on the best location for a search under Code A to take place, given the circumstances, and the views and needs of the person being searched. This should include how to assess the needs of the individual and the likely impact of any decision. It should define the meaning of 'child-friendly' (with a focus on the individual child rather than at the group level). It should clarify the meaning of "nearby police station". While it may not be possible to both respond to individual needs *and* provide a strict hierarchy of location preference, guidance could be provided to help officers consider the relative benefits in given circumstances.
297. Add a provision to Code A that directly addresses the question of searches on the grounds of educational establishments. The simplest approach would be to prohibit all searches in this location. However, it may be preferable to prohibit only MTIP searches. This could be combined with mirroring Code C 11.16, so that non-EIP searches may only take place at a place of education in exceptional circumstances and only when the principal or their nominee agrees. This would reflect and support the inherent right of school leaders to act in the best interests of children in deciding whether to allow a search to take place on the property for which they are responsible.
298. Add a provision to Code A that requires police, when notifying a parent in advance of an MTIP search, to consult with them regarding the best location for the search to take place.
299. The question of cannot be laid only at the door of policing. Ultimately, it is schools that have control over police officers in schools and, they could choose a different relationship with the police. The MPS states that, *"Every safer schools team is borough based & every schools team would work with local school heads, governors & local education leads in deciding where SSOs are based in line with the safer Schools partnership agreement. This is a multi-agency approach and is ultimately down to the individual schools on what police cooperation is required"*.¹⁹⁹ It is for schools in consultation with their communities, to determine what a 'good relationship with the police' means in terms of the best interests of the children.

Oversight and recording

300. Add a provision to Code A to require that an officer must secure authorisation from an Inspector or higher prior to a Code A (MTS) strip search of a child or vulnerable person.
301. Add a provision to Code A to require that an officer must consult a supervisor prior to an MTIP. Evidence on effectiveness and efficiency can be drawn from the Metropolitan Police's pilot of a new policy in two London boroughs response to Child Q, in which any MTIP of a child will need authorisation from a named local BCU (Basic Command Unit) Inspector, which must be recorded.²⁰⁰
302. Add a provision to Code A to require that an officer must make a record of any MTIP, and where that search is of a child, a record and notification should be made in relation to safeguarding on system that is shared with other relevant agencies, including youth justice

services and social services. Evidence on effectiveness and efficiency can be drawn from the Metropolitan Police's pilot of a new policy in two London boroughs, in which, a CAD report must be created for every MTIP, and where it is of a child, a MERLIN^{ae} report must be submitted.

303. Consider how best to provide for situations in which it is not possible to consult with a supervisor within a reasonable timeframe (i.e. one that does not antagonise the person being searched or delay the search for an unreasonable time), and whether such exceptions should be disappplied in the case of children and vulnerable adults.
304. Consult with local authority youth justice services and children's services to determine whether they could have a tactical or strategic role in relation to searches of children, in particular MTIP searches. For example, this might involve police officers making contact with the YJS in advance of a search, where possible.
305. For Code C (custody) searches, require authorisation from at least Inspector rank for any strip search of a child or vulnerable person, as per the HMICFRS expectations for children.
306. Require police forces to provide data on MTIP and custody strip (and intimate) searches. This could include: volume, location, reason, characteristics of person searched (age/sex/gender/ethnicity/vulnerabilities), use of appropriate adult, sex of appropriate adult number and sex of person conducting the search.
307. Empower communities and civil society to contribute to oversight, including through data.
308. Strengthen the rights and autonomy of individuals with regard to the audio/visual recording of searches, both under stop and search and in police custody

^{ae} MERLIN is a system operated by the Metropolitan Police to record every instance of a child 'Coming to Notice' (CTN). In almost all circumstances, a MERLIN notification will be faxed to the local social services department. If education or health services have signed up to an information-sharing agreement with the Metropolitan Police Services, they may also receive MERLIN information. See [Children's Databases – Safety and Privacy, A Report for the Information Commissioner](#), Foundation for Information Policy Research.

Purpose and conduct

309. Different approaches to the possession of cannabis have the potential to make a significant difference to the volumes of searches under Code A. This might include anything from tactical decisions by individual officers, to strategic decisions by senior officers, to decisions about performance measurement, health-based approaches to drug use, and right up to the legalisation of personal cannabis use.
310. The Courts have been clear that strip-searching is capable of engaging human rights (for example Article 3: freedom from torture and inhuman or degrading treatment²⁰¹, and Article 8: respect for private and family life²⁰²) and potentially the UN Convention on the Rights of Children and Equality Act 2010²⁰³. The legal duties under the Equality Act 2010, and Children Act 2004 section 11^{af} apply not just to how officers *apply* PACE but also to the content of PACE itself. PACE should support officers in upholding human rights; eliminating unlawful discrimination, harassment and victimisation; advancing equality of opportunity; and discharging their functions in a way that safeguards and promote the welfare of all children.
311. Clarify whether or not the smell of cannabis (and any other single factors) alone is enough to constitute reasonable suspicion, and therefore whether it is an acceptable basis for a stop and search, adding a provision or note to Code A to reflect the position
312. Correct APP to reflect Code A 3.7 provision that searches involving the exposure of intimate body parts ‘must’ not be conducted as a routine extension of a less thorough search, because nothing is found (it currently says ‘should’).
313. Clarify whether, except in cases of urgency, there must be two persons present for any strip search, or just for strip searches that expose intimate body parts.

^{af} [Section 11 of the Children Act 2004](#) places duties on a range of organisations, agencies and individuals to ensure their functions, and any services that they contract out to others, are discharged having regard to the need to safeguard and promote the welfare of children.

Equality

314. Include the voices of groups directly affected in discussion on changes to PACE.
315. Consider a discrete PACE approach to searches (and their avoidance) for children, based on the Equality Act 2010, Childrens Act 2014 s11 responsibility for safeguarding, and UNCRC.
316. Amend PACE 1984 /Code C to replace “juveniles” with “children” as per Code A, Code D etc.
317. Review the PACE safeguards in relation to searches of ‘vulnerable people’ (as defined by Code C) to ensure compliance with the Equality Act 2010 and UNCRDP.
318. Consider whether the definition of vulnerability under PACE Code C identifies and includes all the people who might be at elevated risk in terms of the impact of searches. And if not, consider what steps could be taken to mitigate risks for those people.
319. Update PACE Codes to reflect specific needs related to sex and gender, for example drawing on the APP guidance in relation to menstruation.
320. Amend Code A to state that an officer of the same sex should carry out a “JOG” search if they are readily available, in line with the code of practice for searches under TACT 2000 s43
321. Review PACE Code C Annex L to determine an equitable approach for non-binary people.
322. In relation to ethnicity, and particularly the disproportionality and treatment of Black people, it is clear that a range of actions are required. These have been clearly articulated by a range of other organisations and publications. The IOPC National Stop and Search learning report (April 2022) and the Police Race Action Plan’s ‘Not over-policed’ workstream²⁰⁴ have set out clear recommendations and an action plan. The focus should now be on implementation.

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