

Strip searches

Response to proposed
amendments to PACE
Codes of Practice A and C

June 2024

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About us

Appropriate adults (AAs) safeguard the interests, rights, entitlements and welfare of children and vulnerable people who are suspected of a crime. AAs are independent of the police and ensure people are treated in a fair and just manner, and can participate effectively.

The [National Appropriate Adult Network](#) (NAAN) was established in 1995 by frontline practitioners, Mind, Mencap and Revolving Doors Agency, and registered as a charity in 2004. With around 100 member organisations, we provide an independent centre of expertise, innovation and infrastructure support. NAAN's vision is that every child and vulnerable person detained or questioned as a suspect is treated fairly with respect for their physical and mental welfare, can exercise their legal rights and entitlements, and can participate effectively. Its mission is to maximise the effectiveness of appropriate adults as a safeguard for children and vulnerable people. We are working towards:

- Local AA provision delivering more effective, efficient, consistent and sustainable support for children and vulnerable people, while remaining independent of policing
- Children, vulnerable people and their supporters making better-informed choices, with more effective familial AAs
- A system of rights and safeguards that work in a fairer way for children and vulnerable people.

At the centre of NAAN's work lie the [national standards](#) for appropriate adult schemes in England and Wales, which are approved by the Youth Justice Board (YJB), Association of Directors of Social Services (ADASS) and Association of Police and Crime Commissioners (APCC).

Our interest in this consultation

Every day, AA schemes within NAAN's membership provide support to children and vulnerable people who are strip searched. The sector has a strong commitment to upholding rights and supporting effective participation – work it is now delivering under critical resource pressures.

Following reporting of the Child Q, NAAN produced a detailed report, [Police searches of people: A review of PACE powers](#) (2022), to inform policy making. The Office of the Children's Commissioner wrote that the issues were "*comprehensively summarised by the House of Commons Library and the National Appropriate Adult Network*".

NAAN has collaborated with many other organisations with an interest in the strip searching of children, including the Alliance for Youth Justice, Children's Commissioner, and Independent Office for Police Conduct (IOPC), while also being a strong voice in relation to vulnerable people aged 18 and over.

NAAN has advocated for a full review of the PACE Act and Codes in relation to the searching of people. Via the PACE Strategy Board NAAN has made proposals including: counteracting recent case law that enables police to touch genitals as part of a strip search; suspects to have rights in relation to whether searches are video recorded; mandatory separate recording of the removal of clothing for 'welfare purposes'; and a clear requirement for an AA to be present for all strip searches (not just those exposing intimate body parts).

1. Matching the sex of the AA

Stated intent

- *"Clarify that appropriate adults of the opposite sex can only be present during strip search if known to the detainee, and the detainee agrees".*
- *"Replicate as far as is relevant in Code A the Code C provisions on the conduct of a strip search, as set out above. This is to ensure that provisions on EIP searches in Code A are self-contained".*

Proposed changes

Code C

Proposed: *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 is known to and** has been specifically requested by the detainee.*

- **Added:** "who is known to and"
- **Removed:** n/a

Code A

Proposed: *3.7A(b) When searches involving the exposure of intimate parts 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 Code C Annex L and Notes 4 and 7.) except an appropriate adult who is known to and has been specifically requested by the detainee.*

- **Added:** Entire paragraph.
- **Removed:** This is a new paragraph. However, Code A 3.7 currently requires searches involving the exposure of intimate parts to be conducted in accordance with Code C Annex A 11 (i.e. "...except an appropriate adult who has been specifically requested by the detainee". Under these proposals that reference is to be removed, in favour of greater detail in the body of Code A.

Application

Code C

- Applies to children and vulnerable people
- Applies only when intimate body parts are exposed (due to strip search or removal of clothing for welfare/evidence/prevent escape)

Code A

- Applies to children and vulnerable people
- Refers specifically to when intimate body parts are exposed.

Our response

NAAN and its member scheme leaders welcome the intent to provide greater clarity on the meaning of the existing provision.

However, scheme leaders have significant concerns about:

- Whether the proposal provides sufficient clarity
- The operational feasibility of ‘sex matching’
- Whether ‘sex matching’ achieves the ultimate objective or is counterproductive.

Greater clarity is still required

The existing Codes lack clarity on the intent and scope of the exception that allows the appropriate adult to be of the ‘opposite sex’. They include several provisions with slightly different wording:

- 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 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 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”.*
- Code A 3.7 *“... Searches involving exposure of intimate parts of the body ...must be conducted in accordance with paragraph 11 of Annex A to Code C...”*
- 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*.

This lack of clarity is reflected in the College of Policing's Authorised Professional Practice (APP):

- 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. Notably, 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. Notably, this does not reflect the exception in relation to appropriate adults at all.

Consequently, there are differing interpretations as to whether the exception is meant to apply:

- Only to an appropriate adult that was specifically named and requested by the child or vulnerable person, someone known to them, for example a girl who requests her father as appropriate adult; or
- To an appropriate adult that was provided for a child (e.g. a youth justice service employee) in the absence of a known person (e.g. a parent) being available but where the child subsequently (after the person's engagement as their AA) requests that the person provided is present during the strip search.

Focusing on clarity, and putting all other concerns to one side:

- The term “known to” remains imprecise and open to interpretation. How long does someone have to spend with someone before they are ‘known to’ them? If the intent is to only apply the exception where a relationship exists before a certain point in time or action is taken, this should be specified e.g. before detention is authorised.
- A child or vulnerable person will not necessarily be aware that their clothes will be removed at the point they name an AA, and therefore may not take this into account.
- Taken together, it remains the case that one could argue that an AA provided to a child or vulnerable person by an AA scheme could, by the time of the search, be “known to” the person, and that person could “specifically request” that this AA be present for the search.
- It remains unclear whether the term “specifically requested” relates to (a) the request to have the person as their AA, or (b) to have them present during the search. Code A 3.6 (unamended under the proposals) refers to the person requesting “it” (i.e. the *presence* of the AA at the search) and not “them” (i.e. the specific AA themselves).
- A person could be “known to” but not “specifically requested” (PACE does not require police to ask people who they want as their AA and requires police to prioritise a child's parent in the role). The opposite could also be true (e.g. where a child requested “someone from the youth justice service”).

Sex matching is not currently feasible (at least for males)

Enforcing sex-matching would 'break' the current system

The operational question for appropriate adult schemes is whether they are expected to 'sex match', i.e. ensure that the sex of the AA is the same as the person they are supporting.

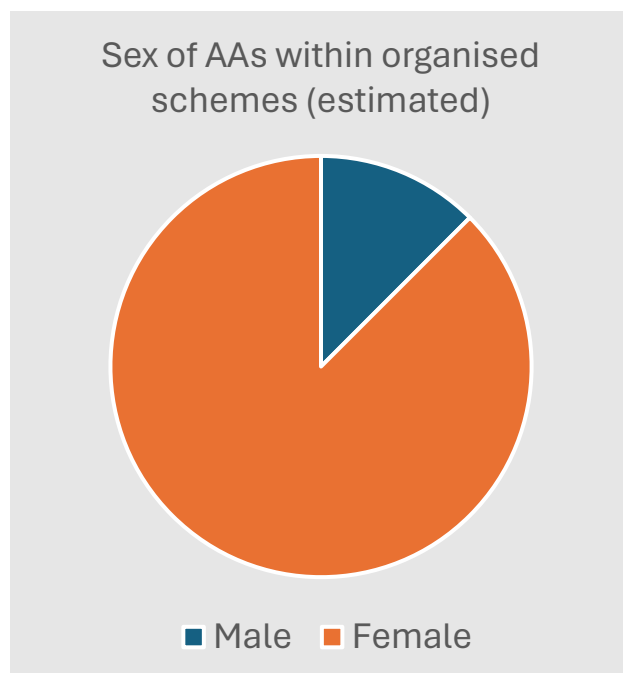
Scheme leaders appreciate that the change is intended as a minor clarification or an existing position, with sex-matching scheme AAs being a reasonable (if not clear) interpretation of the current provision. Notably, the [NAAN national standards](#), backed up by the YJB/Ministry of Justice [national standards for youth justice](#), require schemes to match the sex of AAs if there's a likelihood of a strip search.

However, scheme leaders are equally clear that, across England and Wales, this is not current practice, and if police were to begin demanding AAs of the same sex from AA schemes, it would not be possible to achieve this without major change and investment.

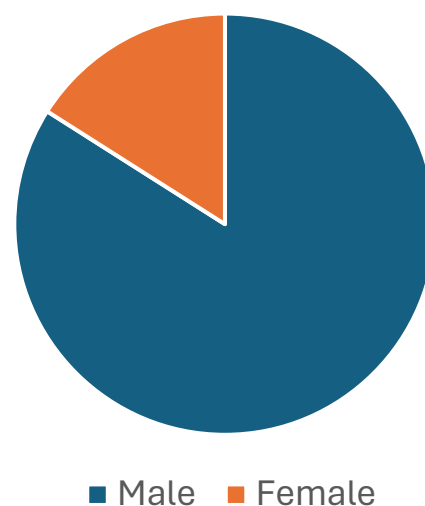
The sex of the AA workforce does not match that of the people supported

Scheme leaders are keen that policymakers understand current supply and demand:

- Most AAs are female (estimated at 85%-90%)
- Most people who require an AA are male (Home Office statistics show that in 2022/23, 84% of detentions of all ages in England and Wales were of males (range 80%-87%), including 84% of detentions of children (range 75%-80%).



Sex of people detained in custody by police



As a Youth Justice Service Manager, we've only got one male YJS officer. The problem isn't going to be resolved just by [amending the PACE Codes].

Current practice

It is critical for policymakers to understand the reality of current service provision, which is that:

- The police have not historically typically requested ‘same sex’ AAs (only one scheme advised us that in their recent experience their local police force is insisting on this).
- Most AA schemes do not currently ‘sex match’ at the point of referral.
- AA schemes are not always informed by the police (and do not enquire) at the point of referral as to whether police intend to carry out procedures that would require a ‘same sex’ AA in order to comply with PACE (e.g. seizure of clothing, strip searching, intimate samples).
- Some AA schemes do endeavour to match if possible but are unable to guarantee this.

In fact, we have no choice because unless it's me that goes from the office and probably, possibly the only male sometimes in the service that might be available, depending on who's on the rota to work. The police understand this. They understand that they can ask for an AA, however they will speak to the young person and say, "Now look, there's no male available. There's female AA available. Would you be happy with that? They won't be watching what's going on. They'll be listening to everything that's being done, making sure that your welfare and dignity is kept as best they can". So that's where we're at.

We always try and get a male to a male [and a] female to female...We obviously we have more females. We have never had an issue with a female. I mean we mainly have females going out to females.

Forced sex matching may not be the best approach

Amongst the scheme leaders who engaged with NAAN, there is a consensus that policymakers should question the underlying assumption that mandating same sex AAs is always protective of the best interests of children and vulnerable people.

Current practice

Scheme leaders are conscious of the potential for the AA to cause further trauma for the supported person, whether due to their sex or other reasons.

I would be horrified [if female AAs were] inside a cell with a male vulnerable adult watching when their clothes are taken off. We stand with our backs to the search.

Where the sex of the AA does not match the sex of the supported person, current practice is for the AA to either stand outside the door of the search room or face away from the search, so that they were ‘present’ but not ‘watching’.

If we can't provide a male AA, for a male, we go through all the protocol with the police. If a strip search was going to happen, the female AA would stand outside the door, when the actual search took place but in earshot of what was happening. And then obviously when decency has been restored, we would then go back in. So that's an issue. And I think that's an issue for a lot of appropriate adult services.

If the young person asked the AA to be in the cell when they are being strip searched we tell the AA that they should not observe the strip search but have their back to what is going on so they can still hear what is being said

We don't watch strip searches, we listen to strip searches. You know, being present is being present, but we're certainly not looking or watching what's going on. We're listening to what's going on

Our AAs also stand outside of the cell within earshot.

Scheme leaders are conscious that this practice may limit AA effectiveness. So current practice is to have a conversation with the person about how they will approach it.

The way we approach it is that that we stay outside. We talk to the vulnerable person or the child and we simply say to them if there's anything you are unhappy about, let us know and we'll stop what's happening. We never, at any time intrude on that strip search, so this seems to me like it's something that's going to be difficult for a lot of AA services to carry out

We always go up to the counter, speak to the sergeant so the person completely understands what they're going to go through. I always say to them before it starts is that if what they're doing isn't what you think is right, then you shout out for my name. And I'm making sure that you are comfortable. It's not nice and I obviously go through all of that. But I make sure that they are comfortable enough to shout my name if they feel that there's something not right.

The approach above is considered by many scheme leaders to be the only available solution given the practical realities of supply and demand (in terms of the sex balance and general resourcing), the current provisions of the Codes, and the need to avoid further traumatisation. It is seen to be the best way to balance the duty to safeguard the person's rights and welfare.

However, scheme leaders highlight several scenarios in which legally mandated sex-matching might be counter-productive.

Trauma

The proposed changes refer to “the potentially traumatic and lasting impact on the juvenile or vulnerable adult” caused by a search. It is assumed that policymakers intend that in safeguarding the person’s rights and welfare, the AA should mitigate, or at least not contribute to, trauma. Scheme leaders are concerned that a myopic focus on sex-matching overrides individual need and could be the cause of trauma.

We may need to consider the fact that some people may not want that pairing based on gender/sex on past experiences. I'm thinking about sexual trauma - and this should be the discretion of the person being detained.

Intersex, trans, and non-binary people

Scheme leaders raise both practical and principled concerns regarding the treatment of intersex, trans, and non-binary people who are searched.

What would you do in the case of somebody who didn't identify as either male or female? Because you cannot have a non-binary police officer and appropriate adult available at all times. You may not have anybody who's non-binary. So the idea of matching then becomes awkward. Essentially what it does is it puts the system in a situation where it's got to ask somebody, “I know you're saying you're non-binary, but if you had to choose, which way would you go?”. Which is obviously just a ridiculous question in that situation.

PACE Code C Annex L (Establishing gender of persons for the purpose of searching and certain other procedures”) focuses on treating people as the gender they consider themselves to be. 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, while paragraph 4 stresses that people should not be asked if they have a GRC. Police can divert from a person’s stated gender where there are “grounds to doubt that the preference accurately reflects their person’s predominant lifestyle”, presumably aimed at a hypothetical situation in which a person ‘pretends’ to be trans. While Annex L refers to “self-identification as being a woman, man, neither or both” the broader Code C refers to “same sex” or “opposite sex”. The effect of this is that police are required to use Annex L as guidance to determine whether the person is to be treated as ‘male’ or ‘female’, in order to apply the binary sex-matching rule. This highlights a limitation of the requirement for the AA to be the ‘same’ or ‘opposite sex’ as the person who is being searched. What should be the requirements on the sex and gender of the AA in the case of a child or vulnerable adult who does not consider themselves either male or female? This is arguably a problem even where the AA is someone is unquestionably “known to” and has been “specifically requested” by the person, because the provision refers to them being a member of the “opposite sex” – a term that is meaningless if the person being searched is non-binary. PACE requires officers to make a binary determination of sex and will request an AA on that basis. If this does not equate to the person’s gender identity, how should the AA scheme proceed?

Variable importance of 'sex matching' to individuals who are searched

Scheme leaders suggest that the sex of the AA does not appear to be a priority for a significant proportion of people who they serve.

We find that young people don't request a same sex AA, but if they do then we would do our best to find an AA of the same sex.

I've been to a number of strip searches at 3:00 or 4:00 in the morning and you know, this male is so grateful for me being there [as a female AA].

This must be taken in the context of a system in which the police are not required to consult with the child or vulnerable person as to the sex of their AA. It is therefore unlikely to be presented to people as a choice. In the context of the power dynamics of police custody and stop and search, and in the absence of rigorous research, it is not possible to say with confidence how important sex matching is, and to what proportion of people.

Conflict with the priorities of individuals who are searched

Scheme leaders are confident that speed of release is a priority for children and adults in custody. A common critique of AA provision is that is not always timely – particularly out of hours. Scheme leaders are clear that attempting to operationalise a practice of sex-matching (in the absence of major structural and financial reform) would have a deleterious effect on response times, especially for males.

My experience is that young people would rather get out quickly. I assume that they would have to be observed while they are waiting for clothing swap. This [sex matching] would make it more traumatic for a young person.

I think on top of everything else, it would just be that additional delay and time that it would take to source an appropriate adult of that same sex.

I just think it's going to impact on children being kept in unnecessarily for a ridiculous amount of time, when our duty as appropriate adults is trying to reduce the time that children and vulnerable adults are kept in custody

We are very, very top heavy with women. And particularly overnight stuff as well, it would probably be absolutely impossible.

Perverse incentives for police

Scheme leaders highlighted that, in the current context, a policy focused on sex-matching creates perverse incentives for the police.

My only concern would be that then the police, if they were concerned about delays, would be looking at working around it. And that could lead to unsafe practise. I've been told by a police officer in relation to something else, to voluntary interviews that to get around the time delay with solicitors, that they're encouraging young people to admit offences without a solicitor being there. So I think they're under considerable pressure and they're doing the best to work around the situation, but sometimes that's not upholding PACE.

Based on current provision, it forces officers to choose between breaching PACE (by using trained AAs from the official scheme of the 'opposite' sex) or complying with PACE by finding a random member of the public (of the 'same' sex) to act in the role.

I can envisage going backwards with this once more. As in if they can't source a male AA, then are they just going to go to the nearest bus stop or Kentucky Fried Chicken and find somebody that's going to come in and act an appropriate adult again? I guess I just have a worry that if we can't source the number of males we need for that, practise will go backwards.

Choice: an alternative approach to safeguarding rights, welfare and dignity

Scheme leaders are conscious that current practice is not supported by the PACE Codes, and therefore presents risks to children and vulnerable people, the police, AAs, and their own organisations.

If the PACE requirement for an AA to be 'present' is interpreted as 'actively observing' then searches of children and vulnerable people are routinely taking place in breach of PACE due to AAs facing away during the search.

If 'present' is instead interpreted as 'in the room', then searches of children and vulnerable people are routinely taking place in breach of PACE due to AAs being outside the room.

And if 'present' is interpreted as being 'outside the room but within earshot if required' then searches of children and vulnerable people are routinely taking place in breach of PACE due to AAs of the 'opposite sex' being 'present'.

As a result, strong support exists for taking an alternative, more person-centred, approach in which services respond to individuals rather than to sex-based categories, while complying with the requirements of the Equality Act 2010 in respect of providing services differently to people of different sex.

Responding to what people want

Scheme leaders strongly feel that, while 'sex matching' may not be important for some people, for others it will be fundamental. There is a working hypothesis that sex-matching may be important to a larger proportion of women and girls, than of men and boys. However, this is currently based on experience rather than hard data.

Just really to reflect those points that have already been made, but also thinking that there must be a way around it, because in my view it is my personal view that the right thing to do is to have somebody of the same gender there to observe what's happening given the current climate.

Increasing choice

Scheme leaders believe a policy which increases choice could resolve many of the tensions.

Part of our practise is putting the child at the centre and listening to their voice and I feel their voice is not heard if they're being told what's happening to them and not involving them.

[How about] leaving it to the choice of the child or indeed the adult, to make an informed decision about what they wanted? Maybe it's one way through...giving as much power as possible to people who are going to be strip searched. In terms of the sex of the appropriate adult, but also whether they are in the room during the search.

This might involve recognising that children and vulnerable adults have:

1. The right to choose whether their AA is male or female; and
2. The right to choose the nature and extent of their AA's involvement in the procedure (e.g. in the room watching, in the room facing away, or immediately outside the room).

This principle would build on the existing choice given to children and AAs jointly, regarding the AA's presence during a search. Code C already states that the AA does not need to be present for the search if: the child says in the presence of the AA that they don't want them present for the search, the AA agrees, and a record is signed by the AA (see Annex A 11(c)). However, this version of choice is restricted.

In the absence of sex matching in practice, and where the sex of the AA is important to the person, their effective choice is either to (a) have a person of the 'opposite sex' present contrary to their wishes or (b) have no person present – and therefore miss out on a critical safeguard.

In addition the AA has a veto on their absence. This confuses the role of the parent of a child (whose consent must be secured wherever consent is required under PACE) with the role of the AA (who has no role in consent and is present to inform, support, and enable decision-making). Scheme leaders believe that, within trained AA schemes, AAs would invariably agree with a child. They find it difficult to imagine a situation in which an AA provided to a child would force their presence on a child in opposition to their wishes, and are deeply concerned about the moral, legal and emotional impact of doing so. Parents who act as AAs may feel very differently about this, given their very relationships. However, the current provisions of PACE allow for the AA to neither be a parent nor someone from an official scheme. Consequently, a person who is neither a parent, nor under the control and direction of an official scheme, is *still* in the position of being able to force their presence on a child who is being stripped naked – with no requirements in PACE to look away (for example).

NAAN members have long noted that even this restricted choice is denied to vulnerable adults in the existing Codes. They continue to question the logic by which adults should be denied even the limited choice offered to children. This cannot be based on arguments about ‘capacity’, not least because almost all people who are determined to be ‘vulnerable people’ under PACE would have ‘capacity’ under the Mental Capacity Act.

A move to increase choice would be consistent with the:

- UN Convention of the Rights of the Child: Articles 16 (right to privacy) and 12 (respect for the views of the child)
- UN Convention on the Rights of Persons with Disabilities: Articles 22 (respect for privacy), 12 (equal recognition before the law), and 17 (protecting the physical and mental integrity of the person).

Safeguards

Scheme leaders remain wary of the potential for ‘on paper’ choices to evaporate, due to lack of information, time pressures, power dynamics, and both intended and unintended manipulation (both by police and AAs) . It is critical that any decision be fully informed and free of pressure.

There is a concern that the freedom afforded by choice might result in the most vulnerable children and adults not benefiting from the important safeguard of an AA. For example, a person may waive their right to have an AA present due to a short-term focus on the time, or be encouraged not to have one by a police officer. For example, they may be told, “You can have an AA present in the room if you want but it will take a lot longer”. They may not be told about the full breadth of their choice, such as being able to have an AA present but not watching.

I think that's a very wise, wise move. Although there are those subtleties aren't there of how power is influencing the child's choice at any particular point in time. So I think as AAs we'd need to be very aware of that, and act if we felt there was a need. Because I think children are very compliant at times, from my observations they are in that situation and they'll just say yes when they, you know, they're being influenced by the custody Sergeant subtly. I think that situation would need to be managed very sensitively and very carefully

It seems to me that it needs to be an informed decision. This will need to be done in the presence of the appropriate adult.

Therefore, the person’s decision about the *extent* of the AA’s involvement, should therefore be:

- Subject to the ‘informed consent / agreement’ requirements found throughout Code C (e.g. 3.21(b)(ii); 3.21A(d)(v); 15.11D(b))), which in the case of child would require the consent of a parent.
- Made in the presence of the AA who, as per Code C 1.7A, can support, advise and assist them and help them to understand their rights.
- Made following an opportunity for a private consultation with the AA (see Code C 3.15, 3.21A(d)(iv)).

Providing safeguards for the person's decision about whether to specify the sex of the AA is more operationally challenging. Appropriate adults are typically not present in police stations until after they are requested. As a result, it is difficult to mandate the presence of an AA when the decision is made about which AA to secure.

However, there will be situations in which this is possible (e.g. where a parent has travelled with the police to the station in order to act as AA). However, Code C already provides for such challenges, for example in relation to rights and entitlements (see Code C 3.17) and charging (see Code C 16.6). Similarly, it could be mandated that provision of information about this right, and the decision itself, must be complied with in the appropriate adult's presence if they are already at the police station, and if they are not then they must be complied with again in the presence of the AA when they arrive.

Another possible scenario is one in which the AA feels that the attitudes and behaviour of the police officers who are due to conduct the search as so concerning as to warrant the AA's presence at the search, even where the child or adult says they do not wish them to be present. This could be a person experiencing significant mental distress at the point of their decision. In such a situation, they may be concerned that a person (or family member) may in future feel the AA has let the person down by not being present. Indeed, the AA may feel this way. In our view, the appropriate action in this case would be for the AA to raise their concerns with custody officer regarding the officers concerned, and to ensure this, and the custody officer's resultant actions, are logged in the custody record.

It has been suggested to us that one benefit of AAs being present during a strip search, even where the person being searched does not want them present, is to protect police from vexatious claims of inappropriate behaviour.

I think that's also protection for the police as well. For them to have person in the room. I think that it's actually a dual purpose in protecting also the police in terms of any false claims and things like that that might occur..

This may be a benefit to police but in our view it is not a justification. The role of the AA is to safeguard the interests of the person they are supporting, not those of the police. In any case, current practice is not performing this role, since AAs (from organised schemes) are standing outside the room or facing the wall. We note that Code C does not prohibit police from conducting searches in rooms with CCTV cameras (if for example they are concerned about vexatious claims) but does not give people who are searched the right to choose a video recording if this would make *them* feel safer.

Operational impact of increased choice

Scheme leaders recognise that a 'right to choose' would not remove all the challenges associated with mandatory sex-matching.

The choice is a good idea, but we have the same problem with sending same sex AAs.

My big question is, if choice is a right, which I get and understand and even approve of, and we don't have the right sex of AA, what happens then?

While scheme leaders were clear that, based on current demographics, it would be easier to provide females with a female AA, than males with a male AA, some felt that, despite their best efforts, they would currently not be able to always guarantee either. Changes to PACE do not address the underlying imbalance between male demand and female supply.

For some this was about the specific challenge of recruiting male AAs. For others, it was an issue with the wider under-resourcing of AA provision.

I just know that we just don't have it. We only have one AA on at a station at a time and invariably it is a woman. And we are always recruited for new AAs well as I'm sure everybody else is as well. If this is enforced, so we have no choice, I would still really worry.

These are valid concerns, with demand consistently increasing, while resources are often either reducing or facing existential peril.

However, a 'right to choose' could allow for limited male AA resources to be directed at those men and boys who wanted an AA of the same sex.

Furthermore, during our consultation with members, we identified one scheme in which the sex/gender balance amongst AAs was quite different, with men being in the majority. The scheme leader suggested that this may be the result of how the role was communicated during recruitment. This indicates that there may be opportunities to address the current imbalance. This would reduce the operational impact of increased choice.

In our view, there are a number of pre-requisites to implementing the 'right to choose' in relation to the sex/gender of AAs:

- Further consultation with children and vulnerable people
- Further consultation with providers and commissioners of organised AA schemes,
- Further consideration of the implications of the Equality Act 2010 (see Equality and Human Rights Commission: [Separate and single-sex service providers: a guide on the Equality Act sex and gender reassignment provisions](#))
- Formal data collection regarding the sex and gender of AAs in organised schemes
- A pilot of a choice-based approach, capturing data on: (1) the percentage of people (by sex and gender) who selected an AA of the male or female sex; (2) the preferred methods of support during strip searches e.g. in or out of room
- Support for the sector to attract and retain more males to the role of AA.

2. Requirement for an appropriate adult

Stated intent

- The summary of changes does not identify any intent to amend or clarify provisions relating to the requirement for an AA.
- *“Add a paragraph to the PACE Codes which makes clear the potentially traumatic impact of the strip searches on children, the officer’s duty to give due regard to safeguarding needs, to take appropriate action to ensure the child’s dignity, rights and welfare are primary considerations, and to seek and give due regard to the child’s preferences with respect to considerations such as the location of the search and the notification of a parent or guardian”.*

Proposed changes

Code C

Proposed: 11(c): When strip searches are conducted: 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....

- **Added:** Nothing
- **Removed:** N/a

Proposed: 11A: *In addition to the requirements in paragraph 11, because of the inherent vulnerability of juveniles, when a strip search of a juvenile is conducted which involves the exposure of intimate parts: (a) the search shall be conducted with particular regard to the dignity, rights and welfare of the juvenile, taking into account their preferences in respect of matters such as the presence of a parent or guardian;*

- **Added:** Entire paragraph
- **Removed:** N/a

Code A

Proposed: 3.7A(c): *When searches involving the exposure of intimate parts are conducted: 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.*

Proposed: 3.7F: *In addition to the requirements in paragraph 3.7B, because of the inherent vulnerability of juveniles, when a strip search of a juvenile is conducted which involves the exposure of intimate parts: (a) the search shall be conducted with particular regard to the dignity, rights and welfare of the juvenile, taking into account their preferences in respect of matters such as the presence of a parent or guardian and the location of the search;*

- **Added:** Entire paragraphs
- **Removed:** Nothing

Application

Code C

- Applies to children and vulnerable people
- Applies only when intimate body parts are exposed (due to strip search or removal of clothing for welfare/evidence/prevent escape)

Code A

- Applies to children and vulnerable people
- Applies only when intimate body parts are exposed (due to strip search)

Our response

Scheme leaders are concerned that the proposals appear to have limited focus to strip searches that expose intimate parts, at the expense of other strip searches. There is concern that an opportunity for clarification has been missed, and that the Codes minimise the trauma of strip searches that are not considered to expose intimate parts.

Our report, [Police searches of people: A review of PACE powers](#) (2022), provided a detailed breakdown of the different interpretations of the searches of children and vulnerable people for which AAs are required in custody. These included:

- All searches (e.g. 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”).
- All strip searches (e.g. 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”)
- Only strip searches that expose intimate parts (e.g. Code C Annex A 11(c) states, “When strip searches are conducted: (c) except in cases of urgency, where there is risk of serious harm to the detainee or to others, whenever a strip search involves exposure of intimate body parts, there must be at least two people present other than the detainee, and if the search is of a juvenile or vulnerable person, one of the people must be the appropriate adult....”

In relation to Code A, interpretations included:

- All searches (e.g. 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”).
- Only strip searches that expose intimate parts (e.g. 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...”.)

This confusion remains a critical concern.

Despite being highlighted in the consultation documentation as an amended paragraph, Code C Annex A 11(c) has not been amended in any way. It has never been clear whether this provision is simply meant to be simply about the number of people present during an search which exposes intimate body parts (with a side note to clarity that if it is a child or vulnerable person, then their AA will be counted as one of those two) or whether it is intended to limit the requirement for AA presence at strip searches.

In Code A, the requirement in paragraph 3.7 to conduct searches involving the exposure of intimate parts in line with Code C Annex A paragraph 11 has been removed. The new paragraph 3.7A(c) copies across the unclear provision from Code C Annex A 11(c).

At the same time, there is no proposed change to Code A 3.6, which deals with “more thorough searches” (analogous to strip searches that do not expose intimate body parts) but does not include any requirement to comply with the Code C Annex A provisions relating to *all* strip searches.

Hence, it remains unclear to police, AAs, and children and vulnerable people, which levels of search require the presence of an AA. The question remains, is it acceptable that children and vulnerable people are stripped of their t-shirt and trousers, or down to their knickers and bra, without an AA?

There's a little bit of a sense of if we don't remove your knickers and bra then it's not traumatic. And that is a concern that's a concern for me.

We would also encourage policy makers to consider the tension between the proposed requirement in Code C Annex A 11A for officers to take into account a child’s preferences “in respect of matters such as the presence of a parent or guardian”, with:

- the existing requirement on police officers to prioritise parent or guardian in the role of AA (at Code C 1.7 - please note that this paragraph is mis-numbered as 1.6 in the consultation version of Code C); and
- the new requirements on police officers to notify parents (at Code C Annex A 11A and Code A 3.7F).

We fully support the principle of taking into account the child’s view, which is in line with the UN Convention of the Rights of the Child. However, we question what this will mean in practice if police officers are required to notify parents and to prioritise them in the role of AA (the presence of which is mandatory). Although these are also measures which we also support, in order for any provisions to be effective, they must give clear and non-conflicting instructions to officers.

3. Removal of clothing without a search

Stated intent

- “Require that where more than outer clothing is removed from a detainee in custody due to concerns for the detainee’s welfare, to preserve evidence, or any other reason set out in Code paragraph 4.2, the appropriate provisions in Annex A shall apply”.

Proposed changes

Code C

Proposed:

4.2A: Although not a search for a concealed item, the removal of more than outer clothing from a detainee under paragraph 4.2 must be conducted in compliance with paragraphs 10A to 12 of Code C Annex A, as if the references to “strip search” in those paragraphs were references to “removal of clothing”.

- **Added:** Entire paragraph.
- **Removed:** N/a

Annex A 10: Removal of clothing for the purpose of a strip search, or for the purpose of withholding articles under paragraph 4.2, may take place only if it is considered necessary for the following reasons. In the case of a strip search, those reasons are it is necessary to remove an article which a detainee would not be allowed to keep and the officer reasonably considers the detainee might have concealed such an article. In the case of withholding articles under paragraph 4.2, those reasons are it is necessary to remove the article to prevent the detainee using it for the purposes listed in paragraph 4.2. Strip searches shall not be routinely carried out if there is no reason to consider either that articles are concealed or that articles need to be removed for reasons set out in paragraph 4.2.

- **Added:** The paragraph has been expanded to cover removal (seizure) of clothing without a search for the purposes of welfare, evidence, and preventing escape.
- **Removed:** N/a

Application

Code C

- Applies to children and vulnerable people
- Applies whether or not intimate body parts are exposed.

Our response

The change in case law (*Davies 2015*) meant that if more than someone's outer clothing is removed when they come into custody (because the police need it for evidence, they think they might harm themselves with it, or they might try to use it to escape) the police must follow the rules for a strip search, even if no search is involved. This means that all existing provisions, and any changes made in relation to strip searches, also apply where clothes are seized under Code C 4.2.

NAAN and its member scheme leaders welcome the inclusion of this case law in the body of Code C. Including settled case law is in the interests of all parties. Although the case law is almost a decade old, it is clear that police practice remains variable across the country due to the same lack of clear expectations found by the judge in *Davies*. Inclusion in the Code should act to increase compliance, and will give appropriate adults a more powerful tool to address non-compliance.

While the link to the strip search provisions brings additional clarity about the safeguards that apply, it does mean that all the issues raised in relation to strip search provisions also apply to the removal of clothing without a search.

Technical issues

- It is unclear why paragraph 10 of Annex A to Code C is excluded by this provision, since it has been revised for this consultation specifically to cover the removal of clothing without a search.
- Paragraphs 11(e) of Annex A to Code C refers to “search” rather than “strip search” so the transposition of “removal of clothing” does not technically work.
- Annex A's title should be amended from “INTIMATE AND STRIP SEARCHES” to something that encompasses the changes e.g. “REMOVAL OF CLOTHING”. Paragraphs 9 to 12 remain under the subtitle “Strip search”, which should also be amended to reflect the changes.
- Minor drafting point. The main provision (4.2) refers to “they may use them to cause harm to themselves or others, interfere with evidence, damage property, effect an escape or they are needed as evidence”. However, the new content in Annex A says, “it is necessary to remove the article to prevent the detainee using it for the purposes listed in paragraph 4.2”. This does not seem to include ‘evidence’ as this is something the *police* will use it for, not the person. The text “to prevent the detainee using it” should be removed.

Operational impact

AA scheme leaders report that police practice regarding the presence of AAs during the non-search removal of clothing continues to vary between forces.

Some areas still do not request AAs for non-search removals. Something that has led to concerns from children.

We have two custody suites and an AA is not requested for the non-search removal of clothing and we have had a couple of incidences where one of our AAs has gone out later and the young person has shared their concerns around having clothing removed that I then highlighted with the inspector. But at the moment we do not see AA requests for that particular thing .

We haven't seen any requests for AA for clothes removal. It would be a change for us. [But] we haven't had requests for any type of strip search.

We don't specifically get requests for an AA for non-search removal, so it would add to our demand and additional time.

Other schemes report that AAs are often called for various searches but inconsistently for non-search clothing removals. Others highlighted that police practice was inconsistent, both over time and in relation to the Codes and the case law.

We do get called to strip searches most of the time (as far as I know from how many times we are called) and we stay there for the other proceedings then. For non search removal we don't get as many, but we get some every month. some police officers err on the side of caution, some don't even know about this nuanced issue and don't reflect on it. They can always say they didn't know.

Yeah, I think it is a change. I think the police have started requesting that we go out for like removal of changing of jogging bottoms and stuff, but it's not very consistent. It's not a lot at the minute, but I don't know like they seem quite nervous about it. I think they want to make sure they're doing the right thing, but even they're not, I don't feel like they're not really sure what the right thing is.

There was a case where a custody sergeant was stabbed by somebody when their clothes were being removed. They'd had a knife hidden. And so people...now have their clothes removed before they enter the custody suite.

Resourcing

Under-resourcing was a key theme for scheme leaders. Some, such as those who covered rural areas, felt that they faced particular difficulties in providing AA support from the very start of a detention, given resourcing levels.

There's a little bit of resistance here because operationally it's quite difficult because of the rurality of the place that we live in. ...practically it's quite difficult for us to achieve that because we're very low on numbers. We're incredibly under resourced and under a lot of pressure really.

Overall, scheme leaders were clear that while welcome, the Davies judgement has landed inconsistently in terms of impact on demand and has not resulted in increased resources for provision. This is a matter of concern for scheme leaders who anticipate significantly greater demand due to inclusion in the Codes, without any mechanism for increasing resources to meet it. Consideration must be given to the operational challenges and resource constraints faced by AA services, particularly in rural areas.

Proportionality and unintended consequences

While recognising that the Codes refer to “more than outer clothing”, some scheme leaders have raised concerns about “over reaction” in the interpretation on the ground.

I'm concerned about a knee jerk reaction from police, that removing someone's coat will require an AA. it depends how the police interpret this.

There is an underlying tension whereby the application of safeguards means moving to greater formalisation. The balance between safeguarding vulnerable individuals and minimising unnecessary trauma or delays must be carefully managed.

I think the time factor I just feel like this makes the whole like swapping of clothing just makes it a little bit more traumatic because it's really formalising it. It must make the child feel like this is something bad is going to happen to me because there's a lot of process to go through just for me to swap my trousers. And what are the police doing with the children while they're waiting for the appropriate adult? Because in [our area] they just have a cell with a glass door. Does it mean that they're spending all their time in there while they're waiting for the appropriate adult? I don't feel it is very good practise for the child. There should be somebody there. But it just feels like it's making the whole situation much more traumatic for me.

Scheme leaders highlight the potential for safeguards to do more harm than good if they are not proportionate and focused on the interests of the person.

A child comes in, soaked to the skin, and it's December. It is a welfare issue. It is a risk to be managed. The police want to get them out of the wet clothing and put them into some nice dry clothing for their own benefit. And now you have to wait for an appropriate adult?

Scheme leaders are concerned about where the need for an AA is engaged. In particular, the issue of whether a clothes swap is the result of the exercise of police power. A genuinely voluntary clothes swap should not require an AA, while the exercise of a PACE power should. But the line is not always clear.

If the question becomes “We're going to make you take your clothes off and it's going to be a 2 hour wait for an AA, or you can choose to do it yourself voluntarily”, then in a sense, that is a use of power (if not a legal power). Or if you say to somebody “Do this voluntarily or else we're going to do it for you” is that is that voluntary?

There also remains a question about the meaning of “more than outer clothing” (Code C 4.1, Annex A 9). Does this mean more than the outer-most clothing? Or does it include everything up to but excluding inner clothing? This is a perennial issue, given that often people wear several pairs of trousers simultaneously.

Steps are needed to ensure police actions are proportionate and consistent. The distinction between voluntary and involuntary actions must be clear to avoid coercion disguised as voluntary compliance. Clear, practical guidance is felt to be necessary. However, scheme leaders reflected that guidance from the College of Policing published some time ago had not resulted in consistent application. There is a need to disseminate from the National Police Chiefs' Council (NPCC) and the College of Policing and ensure its application.

4. Inspector involvement

Stated intent

- “Introduce a new requirement for police custody officers to consult an officer of at least the rank of inspector prior to conducting an EIP search of a child or vulnerable person in custody”.
- “Introduce a new requirement that any search of a child or vulnerable person involving the exposure of intimate parts (EIP), conducted under stop and search powers, must be authorised by an officer of at least the rank of inspector”.
- “Replicate as far as is relevant in Code A the Code C provisions on the conduct of a strip search, as set out above. This is to ensure that provisions on EIP searches in Code A are self-contained”.

Proposed changes

Code C

Proposed: *Annex A 10A: A strip search of juvenile or vulnerable person which involves the exposure of intimate body parts may only take place if the custody officer has consulted with an officer of at least the rank of inspector regarding whether any such search would be necessary and proportionate in the circumstances. A record of the consultation and the considerations discussed should be noted in the custody record.*

- **Added:** Entire paragraph.
- **Removed:** N/a

Code A

Proposed: *3.7C: Except in cases of urgency, where there is a risk of serious harm to the detainee or to others, a search of either juvenile or vulnerable adult which involves the exposure of intimate parts may only take place if it has been authorised by an officer of at least the rank of inspector. The identity of the inspector and the reasons for the authorisation should be recorded in the search record.*

- **Added:** Entire paragraph
- **Removed:** N/a

Application

Code C

- Applies to children and vulnerable people
- Applies only when intimate body parts are exposed (due to strip search or removal of clothing for welfare/evidence/prevent escape)

Code A

- Applies to children and vulnerable people (despite being under a ‘juveniles’ heading)
- Applies only when intimate body parts are exposed (due to strip search)
- Does not apply in cases of urgency, where there is a risk of serious harm

Our response

NAAN and its member scheme leaders support increased oversight by more senior officers.

We appreciate that a requirement for *authorisation* from inspector rank or higher would present particular challenges in police custody, where the custody officer holds responsibility for the safety of everyone.

However, policymakers are encouraged to consider:

- That consultations may be of limited effectiveness unless the risk is clearly and legally transferred from the custody officer to the inspector.
- That both consultations and authorisations have the potential to be of limited effectiveness (noting the evidence of inspector’s reviews being reduced to a ‘tick box’ or ‘rubber stamp’ exercise).
- Why, in the case of a child or vulnerable person, inspector consultation (Code C Annex A 10A), or authorisation (Code A 3.7C) is only required if intimate body parts are going to be exposed, and not for other strip searches.
- Why the requirement to record the identity of the inspector is explicit in Code A but not in Code C.
- The potential for confusion caused by placing a provision which is explicitly applicable to both children and vulnerable people, under the heading “*Searches of juveniles involving the exposure of intimate parts*”.

5. Superintendent notification if no AA

Stated intent

- *“Introduce a new requirement to notify an officer of the rank of at least superintendent as soon as practicable following any urgent strip search of a child or vulnerable adult – i.e., where no appropriate adult was present”.*
- *“Replicate as far as is relevant in Code A the Code C provisions on the conduct of a strip search, as set out above. This is to ensure that provisions on EIP searches in Code A are self-contained”.*

Proposed changes

Code C

Proposed: *Annex A 11A In addition to the requirements in paragraph 11, because of the inherent vulnerability of juveniles, when a strip search of a juvenile is conducted which involves the exposure of intimate parts: (b) Where, due to urgency or any other reason besides the juvenile’s decision and appropriate adult’s agreement as above (see paragraph 11(c)), a search of a juvenile involving the exposure of intimate parts takes place in the absence of an appropriate adult, an officer of at least the rank of superintendent must be notified as soon as practicable. A record shall be made of the identity of the officer notified and the reason(s) the search was considered urgent;*

- **Added:** Entire paragraph.
- **Removed:** N/a

Code A

Proposed: *3.7D: ... Where, due to urgency or any other reason besides the juvenile’s decision and appropriate adult’s agreement as above, a search of a juvenile involving the exposure of intimate parts takes place in the absence of an appropriate adult, an officer of at least the rank of superintendent must be notified as soon as practicable. A record shall be made of the identity of the officer notified and the reason(s) the search was considered urgent.*

- **Added:** Entire paragraph
- **Removed:** N/a

Application

Code C

- Applies to children only
- Applies only when intimate body parts are exposed (due to strip search or removal of clothing for welfare/evidence/prevent escape)

Code A

- Applies to children only
- Applies only when intimate body parts are exposed (due to strip search)

Our response

NAAN and its member scheme leaders support increased oversight by more senior officers in relation to strip searches that take place in the absence of an AA.

Notwithstanding the absence of data on the use of the ‘urgency’ exception to the AA requirement, we are concerned that a significant number of searches/seizures may be conducted without an AA using this exception. And that the grounds for using this exception may not always be sufficient.

We believe that the need to notify an officer of superintendent rank (or higher) will act to reduce the use of the exception without sufficient grounds.

However, policymakers are encouraged to consider:

- Providing greater clarity on what should be included in a notification. Is it simply that it occurred? Or should details be provided (e.g. age, vulnerabilities, circumstances, rationale for the search being necessary and urgent due to the risk of serious harm).
- The provisions contract “cases of urgency, where there is a risk of serious harm” to “cases of urgency”. This is no doubt for brevity. However, divorced from the second part, it could be said to have a different meaning. In particular, we are concerned that it will be easier to interpret the provision as being linked more to time pressures than to risk of harm.
- Why this provision is applied only to children. We see no reason why it should not be applied to vulnerable people, for whom an AA is equally required.
- Whether non-EIP strip searches should be included.

6. Definition of child

Stated intent

- “Clarify that if any time, an officer has reason to suspect that a person may be under 18, in the absence of clear evidence to dispel that suspicion shall be treated as a child for the purpose of the code and any other code”.
- “Replicate as far as is relevant in Code A the Code C provisions on the conduct of a strip search, as set out above. This is to ensure that provisions on EIP searches in Code A are self-contained”.

Proposed changes

Code C

Proposed: *1.5 If at any time an officer has reason to suspect that a person may be under the age of 18, in the absence of clear evidence to dispel that suspicion, that person shall be treated as a juvenile for the purposes of this Code and any other Code. See Note 1L.*

- **Added:** If at any time an officer has reason to suspect that a person may be under the age of 18, in the absence of clear evidence to dispel that suspicion, that person shall be treated
- **Removed:** Anyone who appears to be under 18, shall, in the absence of clear evidence that they are older, be treated...

Code A

Proposed: *3.7B If at any time an officer has reason to suspect that a person may be under the age of 18, in the absence of clear evidence to dispel that suspicion, that person shall be treated as a juvenile for the purposes of this Code*

- **Added:** Entire paragraph
- **Removed:** N/a

Application

Code C

- Applies to children only
- Applies to all procedures under all PACE Codes

Code A

- Applies to children only
- Appears to apply to all procedures under Code A but unclear (see response below).

Our response

NAAN and its member scheme leaders support this change.

Although it is unclear what impact it might have, the principle of moving away from a determination of age based on how a child “appears” to an officer is welcome. The alignment of the provision with the “reason to suspect” approach taken towards the identification of vulnerable persons, should mean that information provided by the child (or someone known to them) must be taken at face value unless there is clear evidence to the contrary. In short, greater weight should be given to self-reporting. In theory, this could have a positive effect in relation to issues such as the adultification of children – particularly those from racialised communities.

However, policymakers are encouraged to:

- Consider the missed opportunity to replace all references to “juvenile” in Code C with the word “child”. The official summary of proposed changes to this consultation states that this amendment relates to being “treated as a *child*”. Code A already uses the term “child” and includes no reference to “juvenile”. The single existing reference to “child” in Code C 16D (“...Rather, ‘impracticable’ should be taken to mean that exceptional circumstances render movement of the *child* impossible or that the *juvenile* is due at court in such a short space of time that transfer would deprive them of rest or cause them to miss a court appearance...”), and the new juxtaposition of “juvenile” and “child safeguarding” in Code C Annex A 11A, highlight the need to align the language across the Codes.
- Move the content currently proposed for Code A 3.7B out from under the subtitle “Searches of juveniles involving the exposure of intimate parts”. The determination of a person’s status as a child, and the requirement to treat them as such, applies across the Code, not just to strip searches that expose intimate parts. For this reason, it could sensibly be moved to section 1.0 General, for example as a new paragraph at 1.04. A reference back to 1.04 could be included in one or more provisions relating to searches of juveniles, to ensure that this is highly visible.

7. Parental notification

Stated intent

- *“Introduce new requirement to notify a parent/guardian of the search and its outcome as soon as practicable when an EIP strip search takes place, prioritising before a search if practicable and where this is not possible (e.g., when parent/carer cannot be identified) this should be recorded”.*
- *“Add a paragraph to the PACE Codes which makes clear the potentially traumatic impact of the strip searches on children, the officer’s duty to give due regard to safeguarding needs, to take appropriate action to ensure the child’s dignity, rights and welfare are primary considerations, and to seek and give due regard to the child’s preferences with respect to considerations such as the location of the search and the notification of a parent or guardian”.*
- *“Replicate as far as is relevant in Code A the Code C provisions on the conduct of a strip search, as set out above. This is to ensure that provisions on EIP searches in Code A are self-contained”.*

Proposed changes

Code C

Proposed: *Annex A 11A: In addition to the requirements in paragraph 11, because of the inherent vulnerability of juveniles, when a strip search of a juvenile is conducted which involves the exposure of intimate parts: (c) the custody officer must notify a parent, guardian or other person identified under Code C paragraph 3.13, above, as responsible for the child’s welfare (see also Code C Note 3C). Where practicable, this notification should take place prior to the search being conducted. If it is not practicable to contact a parent, guardian or other person responsible for the juvenile’s welfare (for example where such a person cannot be identified) a record shall be made;*

- **Added:** Entire paragraph.
- **Removed:** N/a

Code A

Proposed: *3.7F: In addition to the requirements in paragraph 3.7B, because of the inherent vulnerability of juveniles, when a strip search of a juvenile is conducted which involves the exposure of intimate parts: (b) a reasonable effort should be made, as soon as practicable, to notify a parent, guardian or other person identified as responsible for the juvenile’s welfare (see note 9B) of the juvenile, unless, in the officer’s view, to do so would put the juvenile at risk of harm. Where practicable, this notification should be made before the search is conducted. If it is not possible to contact a parent, guardian or other person responsible for the juvenile’s welfare (for example where one cannot be identified), or where the decision is made not to do so in the interest of the juvenile’s welfare, a record shall be made;*

9B: For the purposes of notifying a person responsible for the juvenile’s welfare regarding a search involving the exposure of intimate parts, that person may be: • a 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; •any other person who has, for the time being, assumed responsibility for the juvenile's welfare.

- **Added:** Entire paragraph (copy across from Code C 3.13)
- **Removed:** N/a

Application

Code C

- Applies to children only
- Applies only when intimate body parts are exposed (due to strip search or removal of clothing for welfare/evidence/prevent escape)
- Parent/guardian must always be notified
- Notification should be before the search if practicable

Code A

- Applies to children only
- Applies only when intimate body parts are exposed (due to strip search)
- A reasonable effort should be made, as soon practicable, to notify a parent/guardian unless, in the officer's view, to do so would put the juvenile at risk of harm
- Notification should be before the search if practicable

Our response

NAAN and its member scheme leaders support the notification of a parent or guardian.

Policymakers are encouraged to:

- Be clearer about what circumstances are envisaged in which it would not be in the best interests of a child's welfare for a parent or guardian to be notified
- Consider how the provisions could be developed to drive *engagement* with a parent or guardian in advance of a potential strip search (potentially avoiding the need for it), rather than *notification* (which implies the search is inevitable).
- Reconsider the decision to exclude non-EIP strip searches from the notification requirement.
- Consider providing vulnerable adults with the right to request police officers make a similar notification to a person of their choice (who may or may not be their appropriate adult) and a requirement on police to explain this right to the person.

8. Safeguarding

Stated intent

- *“Require that a safeguarding referral should be made whenever a EIP search or an intimate search of a child takes place”.*
- *“Add a paragraph to the PACE Codes which makes clear the potentially traumatic impact of the strip searches on children, the officer’s duty to give due regard to safeguarding needs, to take appropriate action to ensure the child’s dignity, rights and welfare are primary considerations, and to seek and give due regard to the child’s preferences with respect to considerations such as the location of the search and the notification of a parent or guardian”.*
- *“Replicate as far as is relevant in Code A the Code C provisions on the conduct of a strip search, as set out above. This is to ensure that provisions on EIP searches in Code A are self-contained”.*

Proposed changes

Code C

Proposed: *1.5B: The Children Act 2004, section 11, 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.*

- **Added:** Entire paragraph
- **Removed:** N/a

Proposed: *Annex A 10: In addition to the general duty in section 11 of the Children Act 2004 (see paragraph Code C 1.5A), due regard must be given by both the custody officer, when deciding whether or not to authorise a search of juvenile involving the exposure of intimate parts, and by the inspector, in advising the custody officer during the consultation required in paragraph 10A, to the juvenile’s safeguarding needs and to the potentially traumatic and lasting impact on a juvenile or vulnerable adult of a search involving the exposure of intimate parts.¹*

- **Added:** Entire paragraph
- **Removed:** N/a

Proposed: *Annex A 11A: In addition to the requirements in paragraph 11, because of the inherent vulnerability of juveniles, when a strip search of a juvenile is conducted which involves the exposure of intimate parts: (d) a child safeguarding referral must be made to the appropriate body providing the name and address of the juvenile, the reason for the search, its outcome, the offence for which the child was under arrest, the current status or outcome of the investigation, and any other information relevant to the welfare of the child*

- **Added:** Entire paragraph
- **Removed:** N/a

¹ The reference to Code C 1.5A is a typographical error in the consultation version of Code C. The correct reference is 1.5B

Code A

Proposed: *3.7E : In addition to the general duty in section 11 of the Children Act 2004 (see paragraph 1.1, above), in deciding whether to request or grant authorisation for a search of a juvenile or vulnerable adult involving the exposure of intimate parts (see paragraph 3.7C), and during the conduct of any such search, due regard must be given to the potentially traumatic and lasting impact on the juvenile or vulnerable adult, and to their safeguarding needs. Careful consideration should be given to the location where the search is to take place, particularly that it should be conducted in a safe, controlled and appropriate environment.*

- **Added:** Entire paragraph
- **Removed:** N/a

Proposed: *3.7F: In addition to the requirements in paragraph 3.7B, because of the inherent vulnerability of juveniles, when a strip search of a juvenile is conducted which involves the exposure of intimate parts: (a) the search shall be conducted with particular regard to the dignity, rights and welfare of the juvenile, taking into account their preferences in respect of matters such as the presence of a parent or guardian and the location of the search; (c) a safeguarding referral should be made to the appropriate body, in line with force policy, providing the name and address of the juvenile, the reason for the search, its outcome, and any other information relevant to the welfare of the child;*

- **Added:** Entire paragraph
- **Removed:** N/a

Application

Code C

- Applies to children only
- Applies only when intimate body parts are exposed (due to strip search or removal of clothing for welfare/evidence/prevent escape) – and possibly intimate searches.

Code A

- Applies to children only
- Applies only when intimate body parts are exposed (due to strip search)

Our response

NAAN and its member scheme leaders support a safeguarding approach to children and vulnerable adults. We welcome the recognition that actions taken by the police can generate the need for a safeguarding referral. Historically, safeguarding has focused on issues such as self-harm *noticed* by police during a search process, rather than issues *caused* by police.

We had a young lady. She was strip searched on every occasion because she had a history of putting broken glass down her underwear. That was always reported for safeguarding by the police through to the right places. That's the only time that we would raise things like that, if there's significant self-harm

I just was reminded of a Youth Justice Service around this two or three years ago. They raised a safeguarding concern, and it turned into a big ruck between them and their local Constabulary, because they felt that there were no grounds for this particular strip search. So it got escalated in the moment up to inspector, but it clearly became a formal matter outside of it and they raised it as a safeguarding concern

We've got children who've been arrested, the ones who are consistently, persistently, arrested, we know are ones who've been groomed, who are part of the whole county lines, drugs, the whole thing. They've had real traumatic sexual experiences. They've been used and abused before they've even got into the criminal system and we're putting them in another situation where, "It's OK. We are trusted. We are trusted individuals, but we're going to take your clothes off. It's just piling on top".

Maybe it's difficult as professionals to be thinking about the experience of going through police custody and those kind of things, as something that the impacts on a child in a way that might need safeguarding. But we have had cases of children coming out of police custody and taking their own lives. So you know, we need to think about that.

However, we are concerned that an 'after the fact' safeguarding referral does not equate to a safeguarding *approach*, as called for in our report [Police searches of people \(2022\)](#).

Leicestershire police raise a PPN [police protection notice] for all children arrested

The extent to which a reference to the Children Act 2003 section 11 will translate in practice into a genuine safeguarding approach remains to be seen. We believe that this is something that requires a much more significant re-think of policy, practice and culture. Efforts by forces to take a child-specific approach to children who are at risk should be explicitly supported (indeed mandated) by PACE.

It is notable that the circumstances or threshold for when police perform a strip search have not changed. New references to necessity (Code C Annex A 10), refer to existing provisions.

As far as the proposed amendment goes, policy makers are encouraged to consider:

- Why the custody (Code C Annex A 10B) or searching officer (Code A 3.7E) and inspector are only required to have due regard to a child’s safeguarding needs if the strip search exposes intimate parts.
- Why the custody officer (Code C Annex A 10B) or searching officer (Code A 3.7E) and inspector are only required to have due regard to the potentially traumatic and lasting impact on a child or vulnerable adult if the strip search/removal of clothing involves the exposure of intimate parts.
- Why vulnerable people are excluded given the existence of an adult safeguarding framework (we note the Government’s recent interest in cuckooing).

I do read some of these changes and feel like t the vulnerable adults part is kind of perhaps slightly less important [to policymakers]. I think my response to those people is you realise that 17-year-olds are 18 at some point and they don't suddenly change into this invulnerable, amazing person who doesn't get upset by these things. I think that's important.

- The potential benefits of further discussion with children and adult safeguarding boards, to properly attenuate responses and give clarity on what steps can be taken in response.
- Why strip searches that do not expose intimate body parts are not considered to justify even consideration of a safeguarding referral – and how this might fail to achieve a person-centred approach that take context into account.
- Whether the intention to include *intimate searches* has been met by the current drafting. Code C Annex A 11A is located under the subtitle “B Strip Search”, while paragraphs 1 to 8 are located under the subtitle “A Intimate Search”.
- How third-party information relevant to safeguarding could be accessed and considered in advance of a strip search, either via AAs or direct to the police from statutory services
- The need for clarity on considerations regarding the location of a Code A strip search or ‘EIP’ search, noting the potential tension between police interpretation of a “safe, controlled, appropriate environment” and the requirement for “taking into account the [child’s] preferences in respect of matters such as ... the location of the search”.
- How, in relation to location, the advice provided in Code A Note 7 (“*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*”) presents a risk to safeguarding.
- The urgent need for a provision to address the judgment in *Owens v Chief Constable of Merseyside Police* [2021] EWHC 3119 (QB), which means police are now able and expected to carry out invasive searches involving physical contact with body orifices (e.g. anus, vagina) previously categorised as an ‘intimate search’ and carried out at medical premises by medical professionals.