

**HUMAN RIGHTS REVIEW
CHILDREN AND
YOUNG PEOPLE:
STRIP SEARCHING
IN POLICE
CUSTODY**

JUNE 2023

FOREWORD

I am pleased to present this human rights review of strip searching of children and young people in police custody, the first of its kind by the Policing Board.

The issue of strip searches of children and young people has been the subject of considerable concern over the last two years across the UK. In Northern Ireland, the issue of strip searching of children in custody was raised by organisations in the children's sector at a PSNI Youth Champions Forum meeting in May 2022. Subsequently, questions were raised by the Board with the Chief Constable and it was agreed that a dedicated review was necessary. Terms of Reference for this report were agreed by the Board's Performance Committee in February 2023 and over the last three months the Human Rights Advisor and officials engaged widely with PSNI, the Northern Ireland Appropriate Adult Scheme provider Mindwise, organisations in the children and youth sector and other police services in the UK.

The responsibility of custody officers and staff to protect those arrested and detained is incredibly important, which is why it is paramount to examine the current practice of strip searching of young people and scrutinise whether guidance and governance frameworks are sufficient – both to protect the young people in custody and to give correct guidance to custody officers and staff. The report examines the relevant legislation, statistics, PSNI custody officer training and current governance arrangements. This report puts a particular focus on the role of Appropriate Adults. An Appropriate Adult has a crucial role in protecting a vulnerable or young person in custody and a significant concern of this report is the strip searching of young persons in custody without the presence of an Appropriate Adult.

The Human Rights Advisor makes a series of recommendations for PSNI to consider, including updating guidance and re-evaluating governance frameworks. Additionally, the Human Rights Advisor makes two recommendations regarding the amendment of PACE legislation.



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11

CONCLUSION

ANNEX

I welcome the findings of the report and the recommendations made by the Human Rights Advisor. I will ensure that the Board and its Performance Committee continue to scrutinise the work of the PSNI over the coming months so that the recommendations and lessons identified in this report are implemented to improve policing.

In conclusion, I would like to thank our Independent Human Rights Advisor, John Wadham, for his work in producing this report.



DEIRDRE TONER

CHAIR | NORTHERN IRELAND POLICING BOARD

1

2

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4

5

6

7

8

9

10

11

CONCLUSION

ANNEX

CONTENTS

Recommendations	5
Terms of Reference	8
Introduction	9
Strip Search Rules in Custody	11
Statistics of Juveniles in Custody	15
Appropriate Adult	18
Training	24
Policy	25
Human Rights Compliance	30
Engagement with Children and Young People	32
Discrimination	33
Annex A: Definitions, Regulations and the Law	36
Annex B: New PSNI Policy from 27th January 2023	39
Annex C: Risk Assessments	41
Annex D: PSNI Responses to Questions from Policing Board Members	42
Annex E: Table of Strip Searches	45
Annex F: PSNI Forms for Appropriate Adults	47

1

2

3

4

5

6

7

8

9

10

11

CONCLUSION

ANNEX

CHAPTER 1

RECOMMENDATIONS¹

RECOMMENDATION 1

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

RECOMMENDATION 2

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

This should include:

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

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

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10

11

CONCLUSION

ANNEX

¹ Some of these recommendations have been adapted from the Children's Commissioner's report on the Strip Searching of Children in England and Wales. [Strip Search of children in England and Wales - analysis by the Children's Commissioner for England](#).

RECOMMENDATION 3

PSNI custody staff should clearly record in detail their decisions in relation to strip searches and set out the detail of the justifications in the custody record.

RECOMMENDATION 4

PSNI do not routinely record who the Appropriate Adult is, i.e., a parent or guardian or a person from the Appropriate Adult scheme. This should be rectified as soon as possible, and should include the name, their relationship with the detained person, time contacted, estimate of the arrival time, actual time arrived and any other relevant details.

RECOMMENDATION 5

The PSNI should publish annual figures on the strip searching of children, disaggregated by section 75 grounds, including a categorisation of the reasons for and outcome of the search. This should include whether an Appropriate Adult was present and, if not, why not.

RECOMMENDATION 6

PSNI should commit to additional training for custody officers and custody staff, with a particular focus on strip searching of children and vulnerable persons.

RECOMMENDATION 7

The role and expectations of the Appropriate Adult should be made more explicit in PSNI policy and agreed with the NI Appropriate Adult Scheme, taking into account concerns about privacy, dignity and trauma. Sufficient resources should be available to police to use constant watches while awaiting the arrival of an Appropriate Adult.²

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11

CONCLUSION

ANNEX

² National Appropriate Adult Network *Police searches of people: A review of PACE powers*, November 2022 p. 3

RECOMMENDATION 8

PSNI should reconsider its oversight and governance arrangements for the strip searching of children in custody. In doing so it should consider the recent Custody Detention Scrutiny Panels guidance from the National Police Chiefs Council³ and the establishment of a Custody Scrutiny Panel, such as the one in place in Suffolk Constabulary⁴ to ensure that all strip searches are considered by external ‘experts’ such as Independent Custody Visitors and the NI Appropriate Adult Scheme provider, specially trained in the role.

RECOMMENDATION 9

PSNI should ensure that a child rights impact assessment (CRIA) is conducted on the new policy.

RECOMMENDATION 10

PSNI and the Department of Justice should implement the relevant recommendations as a matter of urgency and the PSNI should provide a full report to the Policing Board setting out their detailed response to each recommendation with a timeframe for implementation within six months of publication of this report.

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CONCLUSION

ANNEX

3 NPCC, The Introduction of Custody Scrutiny Panels: A Guide for Police & Crime Commissioners and Chief Constables, April 2023.

4 Further information at p.27&28.

CHAPTER 2

TERMS OF REFERENCE

The Policing Board will assess the compliance with human rights in how the PSNI deals with children and young people and the process of strip searching in custody and will:

- Examine the PSNI's records of all those children and young people strip searched in 2022;
- Assess a sample of strip search decisions made after 27th January 2023 when 'additional measures have been taken' by PSNI;
- Assess the basis of each strip search considering any intelligence or evidential material in the context of the Police and Criminal Evidence Order 1989 (PACE), Code of Practice C and Annex A:
 - The decision to strip search;
 - The details and availability of Appropriate Adults at the time; and
 - The assessment of urgent need to go ahead with the strip search in the absence of an Appropriate Adult and any arrangements that might be necessary to protect the person detained and officers whilst waiting for an Appropriate Adult to arrive.
- Assess the PSNI's proposals to improve the processes and recording systems; and
- Make recommendations or suggest changes to the procedures and policies to ensure compliance with human rights and to protect both the children and young people and the police officers that deal with them.

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11

CONCLUSION

ANNEX

CHAPTER 3

INTRODUCTION

The focus of this report is the strip searching of children and young people in police custody in Northern Ireland. While a rare occurrence, it is one of the more intrusive interactions between the police and a child. Police have specific responsibilities when interacting with children up until the age of 18, as a protected group in UK legislation and whose rights are protected by the United Nations Convention on the Rights of the Child (UNCRC). The College of Policing issue guidance on police interacting with children and people.⁵

The responsibility of PSNI and in particular the custody officers and staff to protect those arrested and detained is incredibly important and should not be under-estimated. This responsibility is all the more crucial when juveniles and vulnerable people are detained, with the risk of them coming to harm a considerable burden on officers. The consequences of errors, especially in relation to the possession of harmful items, can be very significant. For instance, in December 2020 an adult individual was arrested for possession of drugs (and other offences) and brought to a custody suite in Northern Ireland, where he was strip searched. However, he was later discovered to have consumed drugs in the cell which it was believed had been in his possession when he was taken into custody. He became unwell, was taken to hospital and admitted to the Intensive Care Unit. The Police Ombudsman later investigated the incident. It appears that despite the search he was able to retain drugs and take them in his cell.⁶

The issue of strip searches of children and young people by police has been the subject of considerable concern over the last two years across the UK with Child Q, a female, aged 15 years old, strip searched in a school in 2020. This case is the subject of a recent review⁷ and an investigation by the Independent Office for Police Conduct (IPOC)⁸. In Northern Ireland, the issue of strip searching of children in custody was raised by organisations in the children's sector at a PSNI Youth Champions Forum meeting in May 2022 with more in-depth discussion from the NI Commissioner for Children and Young People, Children's Law Centre, Amnesty International, the BBC and other media.

5 [Children and young persons | College of Policing](#)

6 Police Ombudsman Investigation under Regulation 20, March 2023.

7 Independent Child Safeguarding Commissioner [Local Child Safeguarding Practice Review - Child Q, May 2022](#)

8 [IOPC recommendations to Met over strip searches of children | Independent Office for Police Conduct](#)

Some enquiries by the Board's Independent Human Rights Advisor were followed by a report from the PSNI to the Policing Board's Performance Committee in 2022. Members of the Policing Board then asked a series of written and oral questions to the Chief Constable⁹.

During 2022, there were 27 strip searches of children and young people by PSNI in custody and these are the focus of this human rights review. In considering these cases a number of issues have emerged.

Reliability of data and specifically the inaccurate information provided by the PSNI in response to questions by the Policing Board is a concern and one which is not unique to Northern Ireland. Throughout the UK there is no nationally held data on how many MTIP¹⁰ 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.

Two further substantive issues are: firstly, the nature of the intelligence or evidential basis for the strip searches given the absence of items subsequently found by the PSNI; and secondly, the fact that the need for the search was classified as urgent in 25 of the 27 cases considered by the Independent Human Rights Advisor and, as a result, an Appropriate Adult¹¹ was present to support the child or young person searched on six occasions.

The PSNI has argued that the searches and the absence of Appropriate Adults were justified, but this has been questioned by Members of the Policing Board and challenged by the NI Commissioner for Children and Young People and Children's Law Centre (amongst other agencies). There was therefore a significant impasse, with PSNI claiming that the proper procedures were followed, and the proper safeguards were in place, and others challenging this, with the latter not having access to the documents or other evidence held by PSNI.

To progress this human rights review the Human Rights Advisor analysed the custody records/custody information of all 27 cases, met with PSNI custody leads and analysed current and new policy and guidance. The Advisor has also analysed the new searches (11) that have taken place since the new PSNI policy was put in place on 27 January 2023.

9 [Questions to the Chief Constable - strip search | Northern Ireland Policing Board \(nipolicingboard.org.uk\)](#)

10 More Thorough search where Intimate Parts are exposed.

11 <https://www.appropriateadult.org.uk/>

CHAPTER 4

STRIP SEARCH RULES IN CUSTODY

Once a child or young person is brought into custody, the custody officer is responsible for their welfare and for ensuring that their rights are respected (including the right to advice from a solicitor, notifying someone of the fact that they have been arrested and are in custody, and the provision of appropriate medical care if necessary). For juveniles, this includes informing their parent or guardian, as soon as practicable that the person has been arrested, why they have been arrested and where they are detained.¹²

The power to search in custody an arrested person is provided by Article 55 of the Police and Criminal Evidence (PACE) Order 1989:¹³

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

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

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

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

(3) Subject to paragraph (4), a custody officer may seize and retain any such thing or cause any such thing to be seized and retained.

12 Or any other person who has, for the time being, assumed responsibility for the juvenile's welfare, Code C, 3.8.

13 Which follows the text of the Police and Criminal Evidence (PACE) Act 1984 which applies in England and Wales.

- (4) Clothes and personal effects may only be seized if the custody officer—
- (a) believes that the person from whom they are seized 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 escape; or
- (b) has reasonable grounds for believing that they may be evidence relating to an offence.
- (5) Where anything is seized, the person from whom it is seized shall be told the reason for the seizure unless he is—
- (a) violent or likely to become violent; or
 - (b) incapable of understanding what is said to him.
- (6) Subject to paragraph (10), a person may be searched if the custody officer considers it necessary to enable him to carry out his duty under paragraph (1) and to the extent that the custody officer considers necessary for that purpose.
- (7) A person who is in custody at a police station or is in police detention otherwise than at a police station may at any time be searched in order to ascertain whether he has with him anything which he could use for any of the purposes specified in paragraph (4)(a).
- (8) Subject to paragraph (9), a constable may seize and retain, or cause to be seized and retained, anything found on such a search.
- (9) A constable may only seize clothes and personal effects in the circumstances specified in paragraph (4).
- (10) An intimate search may not be conducted under this Article.
- (11) A search under this Article shall be carried out by a constable.
- (12) The constable carrying out a search shall be of the same sex as the person searched.'

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CONCLUSION

ANNEX

On Arrival

The custody officer has the power to search a person on arrival at the police station (or when already in the station and are subsequently arrested):

‘if the custody officer considers it necessary to enable him to carry out his duty... (to) ascertain everything which a person has with him...’¹⁴

This gives a very wide discretion to the officer. Annex A provides the definitions of the different types of searches.

At Any Time In Custody

‘A person who is in custody... may at any time be searched in order to ascertain whether he has with him anything which could be used:...

- (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 escape...’¹⁵

This provides a very wide discretion to the custody officer. This wide discretion is, however, constrained by the PACE Order Codes of Practice.¹⁶ Part C of this Order for the Detention, Treatment and Questioning of Persons by Police Officers, Annex A, Part B states:

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

10. A strip search may take place only if it is considered necessary to remove an article which a detainee would not be allowed to keep, and the officer reasonably considers the detainee might have concealed such an article. Strip searches shall not be routinely carried out if there is no reason to consider that articles are concealed.’

11. When strip searches are conducted:

- (a) a police officer carrying out a strip search must be the same sex as the detainee...;
- (b) the search shall take place in an area where the detainee cannot be seen by anyone who does not need to be present, nor by a member of the opposite sex ... except an appropriate adult who has been specifically requested by the detainee...

14 Article 55(1) & (6), restructured for clarity.

15 Article 55(1) & (7), restructured for clarity.

16 These Codes are very similar to those applying in England and Wales.

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

(d) the search shall be conducted with proper regard to the sensitivity and vulnerability of the detainee in these circumstances and every reasonable effort shall be made to secure the detainee's co-operation and minimise embarrassment. Detainees who are searched shall not normally be required to remove all their clothes at the same time, e.g., a person should be allowed to remove clothing above the waist and redress before removing further clothing;

(e) if necessary to assist the search, the detainee may be required to hold their arms in the air or to stand with their legs apart and bend forward so a visual examination may be made of the genital and anal areas provided no physical contact is made with any body orifice;

(f) if articles are found, the detainee shall be asked to hand them over. If articles are found within any body orifice other than the mouth, and the detainee refuses to hand them over, their removal would constitute an intimate search, which must be carried out as in Part A;

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

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

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11

CONCLUSION

ANNEX

CHAPTER 5

STATISTICS OF JUVENILES IN CUSTODY

As discussed, this review focuses on strip searches of children and young in custody by PSNI. The following table shows the overall number of persons under 18 arrested and taken to police custody (a police station) broken down by month during 2022:

Month	Number detained under 18 years
January	90
February	90
March	112
April	107
May	112
June	120
July	117
August	133
September	108
October	94
November	93
December	103
Total:	1,279¹⁷

Of the 1,279 of juveniles arrested and brought to custody in 2022, 27 strip searches were conducted (that is 2.1% of the juveniles arrested and in custody in that year). Of these cases, 22 individuals were 17 years old, 3 were 16 years old, 1 was 15 years old and 1 was 14 years old; 4 were females and 23 were males. Of these searches an Appropriate Adult was present on only six occasions.

17 Between 2018 and 2020, 650 children were strip searched by the Metropolitan Police (57% in police stations) and an Appropriate Adult was not present on 23% of those occasions – Report by the Children’s Commissioner of England, August 2022.

Ten of these young people identified as Catholic, four as Protestant, six as having no religion, and seven refused to provide details. 26 were white and one was of an Irish traveller ethnicity. All were single and had no dependants. Whilst there will always be some issues of reliability in relation to such data produced by self-identification and the number of young people who have not declared their community background, they indicate that over twice as many children and young people strip searched identified as Catholic rather than Protestant.

With regards to the outcome of the search, there were only prohibited items found as a result of these strip searches, namely drugs and a weapon, on two occasions.¹⁸ The following table shows the disposal for each of the 27 cases:

Disposal	Number
Police bail	5
Report to Public Prosecution Service	7
Charged and detained for court	3
Charged and released to court (28 days)	4
Community resolution notice	1
Transferred to court (breach of bail)	3
Transferred to Juvenile Justice Centre	2
Released unconditionally (no further action)	2

Other Locations

This review does not consider strip searches in locations other than police custody. PSNI have advised that data was not collected for strip searches outside of custody before October 2022; however, a manual trawl¹⁹ has shown that for the years 2017-2022, four strip searches of an individual under 18 years took place in other locations outside of the custody suite. These involved four males, two of which were aged 16 years of age and two aged 17 years of age in separate incidents. Of these, one of the 16 year olds was searched in a police station with an Appropriate Adult present; the other 16 year old was searched in his home, with his mother's approval; one of the 17 year olds was searched at a concert venue, no Appropriate Adult was present; and the final search of a 17 year old was in a medical setting with a social worker present. All were for drugs-related offences.

18 PSNI records provided to Policing Board as part of this Report.

19 Limitations regarding strip search data:

- (1) There was no marker on a stop and search record to explicitly record that a strip search was carried out for the time period above. The information provided is the number of stop and searches resulting in a strip search but only where this information has been recorded in a free text field, which may or may not be the case. These fields were searched for the phrases 'strip search' and 'strip searched'. The search was carried out on those stops conducted under a power in which grounds are required to be recorded.
- (2) Data is provisional and subject to change.
- (3) The information provided is dependent on the information having been input into the system in such a way as to identify those records that are relevant.

Since October 2022, PSNI have implemented a new system which requires any officer conducting a strip search, outside of the custody setting, to record this, seek the approval of a supervisor and request the presence of an Appropriate Adult before proceeding. Changes to the 'Origin' stop and search records system now requires officers to record the following information during a stop and search encounter:

- Age range (under 10, 10 – 17 and over 18);
- Clothing removed (No – no clothes removed, No – outer clothes only removed, Yes – partial strip and Yes – full strip);
- Clothing removed details (this is a free text field);
- Intimate parts exposed (Yes or No);
- Searched in public view (Yes or No);
- Was an Appropriate Adult present (Yes or No);
- Authorising supervisor; and
- Reason for strip (this is a free text field).

The poor quality of data before October 2022 is a national problem with the lack of this data making it difficult to consider this important power or the consistency in its application or otherwise across the UK. The PSNI statistics, while not perfect pre-October 2022, are however in stark contrast to England and Wales. According to the report by the Children's Commissioner²⁰, 2,847 strip searches of children and young people took place in England and Wales with some children as young as eight years of age, between 2018-2022. Of these 37% took place at a police station, 12% at home and 45% at locations not recorded.

Use of Force

In 17 of the 27 strip search cases considered for this Report the young person arrived at the custody suite wearing handcuffs. If any other force is used while the young person is in custody, then this must be recorded as such. In six cases a use of force was recorded in the custody suite (e.g., hand restraints to ensure the safety of the young person), and in two the cases a use of force was recorded during the strip search.

20 [Strip Search of children in England and Wales - analysis by the Children's Commissioner for England.](#)

CHAPTER 6

APPROPRIATE ADULT

Appropriate Adults safeguard the welfare, rights, and effective participation of children and vulnerable adults in custody. An Appropriate Adult for the vast majority of young people will be the parent or guardian, but for the purposes of PACE, a social worker, or representative of a children's home will take the role where necessary. The Northern Ireland Appropriate Adult Scheme is run by Mindwise.

PACE Codes of Practice Guidance

On arrival at the police station, the Appropriate Adult should be provided with written guidance as to their role should this be required. (Annex F)

'11.17:

If an Appropriate Adult is present at an interview, they shall be informed:

- they are not expected to act simply as an observer; and
- the purpose of their presence is to:
 - advise the person being interviewed;
 - observe whether the interview is being conducted properly and fairly;
 - facilitate communication with the person being interviewed (except where a Registered Intermediary is facilitating communication during the interview).'

An Appropriate Adult can be any responsible person²¹ over the age of 18 who is not a police officer. This list of Appropriate Adults is under review by PSNI. A local scheme exists in Northern Ireland for mental health care workers to play this role, run by Mindwise.²² The contract was awarded by DOJ to Mindwise in 2009. Before 2008, the service was provided by social workers and, following a review, this was changed, and the Northern Ireland Appropriate Adult Scheme (NIAAS) was established in 2009. The NIAAS is affiliated to the National Appropriate Adult Network (NAAN). The NIAAS covers all juveniles (under 18 years) and all vulnerable adults. The staff complement for the scheme is currently: one manager, eight part-time staff and eight casual staff covering Northern Ireland. They are all trained to Open College Network level three in the Appropriate Adult role.

21 Aunt/Uncle, Business relation, Case manager, Child, Cousin Doctor, Employee, Employer, Ex-Spouse, Extended family, Foster Child, Foster Parent, Friend, Girl/Boyfriend, Grandparent, Guardian, Key holder, Landlord, Minister, , Niece/Nephew, Nominated Person, Probation Officer, Roommate, Safe Contact, Sibling, Social Worker, Solicitor, Spouse (Common law), Spouse (Married), Step Child, Step Parent, Ward (Permanent), Ward (Temporary), Other relative, Other Unknown.

22 [MindWise - Supporting & empowering people affected b... \(mindwisenv.org\)](http://mindwisenv.org)

Office hours are 8am – 11pm and call-out/out of hours service is 11pm-8am, provided by a call centre. 50% of call outs are to Musgrave police station in Belfast.

An Appropriate Adult has a crucial role in protecting a vulnerable or young person in custody. The role of the Appropriate Adult is set out as follows:

‘You have a positive and important role. You should not expect to be simply an observer of what happens at the police station.

You are there to ensure that the detained person for whom you are acting as Appropriate Adult understands what is happening to them and why. Your key roles and responsibilities are as follows:

- To support, advise and assist the detained person, particularly while they are being questioned;
- To observe whether the police are acting properly, fairly and with respect for the rights of the detained person, and to tell them if you think they are not;
- To assist with communication between the detained person and the police; and
- To ensure that the detained person understands their rights and that you have a role in protecting their rights.²³

A strip search should not be conducted in a place where the child can be seen by anyone who is not entitled to be present. In addition to the child, there must be not less than two people present, except in the most exceptional circumstances, and one of these people must be the Appropriate Adult.

If a juvenile does not want an Appropriate Adult present during the search, then a record of the juvenile’s decision must be made, and the Appropriate Adult must sign to confirm that the juvenile has made this decision. Having considered the custody information for the strip searches during 2022 it appears that this has not been taking place in PSNI. The January 2023 policy review by PSNI appears also to have missed this and, therefore, it was not rectified by the new policy.

There is a further concern that the current NICHE recording system does not require the PSNI to record on the custody record who the Appropriate Adult is, i.e., whether they are the parent, guardian, social worker, or provided by Mindwise. This should be rectified as it allows Mindwise to ensure they have sufficient resources to cover all requests across all the police stations in Northern Ireland and allows PSNI supervisors to understand the reasons for any delay and, in particular, whether this was a consequence of a parent/guardian delaying their arrival to custody or for some other reason.

23 Home Office and National Appropriate Adult Network [Guide for Appropriate Adults](#) 2011. Also reproduced by PSNI, Form AA1, see Annex F.

It is worth noting that Mindwise are contracted to ensure they arrive within two hours of a request made by PSNI. This, for obvious reasons, is not the case for other Appropriate Adults, such as a parent.

In Code C of the Act (the Code that is designed to ensure a detained person is able to assert their rights and that their welfare is properly considered) there are hundreds of references to the role of an Appropriate Adult.

‘The detainee shall be advised that:

- the duties of the appropriate adult include giving advice and assistance;
- they can consult privately with the appropriate adult at any time.’²⁴

The Code of Practice, Code A, Annex A, is badly drafted and difficult to understand, however it does make it clear when a juvenile is to be strip searched:

‘...there must be at least two people present other than the detainee, and if the search is of a juvenile or mentally disordered or otherwise mentally vulnerable person, one of the people must be the appropriate adult...’

There are two exceptions to this, the first:

‘...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 adult to be present during the search and the adult agrees. A record shall be made of the juvenile’s decision and signed by the appropriate adult.’

Note that the Appropriate Adult must still be physically present in the police station to sign off on that decision by the detained person. Presumably they also have a role in advising and supporting the juvenile in making that decision. There were, apparently, no cases where this happened in 2022.

Secondly,

‘...in cases of urgency, where there is risk of serious harm to the detainee...’

It is this second provision that the PSNI has said justifies the low number of Appropriate Adults that attended the strip searches of juveniles in 2022.

24 Code C, para 3.13.

Strip Searches in Police Custody in 2022 and Appropriate Adults

Police officers, and particularly custody officers, dealing with juveniles who have been arrested have important, and sometimes contradictory, responsibilities. They have to ensure that they are properly processed - identity, fingerprints and samples, interviews, other evidence and bail etc., sometimes this will involve using their powers and force. However, they also have to ensure that the young person is kept safe, and all their rights are observed. This contradiction can be more acute in the context of strip searches. Custody officers have to keep their charges safe and will be very conscious of what those detained might be carrying which might be used to harm officers, to self-harm or take dangerous drugs.

In all but two of the 27 searches considered in this Report, as noted previously, the search is recorded as 'urgent' by the custody staff on the custody record. The presence of an Appropriate Adult was recorded in only six occasions out of the 27 searches. Where an Appropriate Adult was not present for the search, the urgent protection of the detainee was stated as the primary reason. In the vast majority of cases (25), searches were conducted on the basis of a suspicion of carrying/concealing drugs. However, the primary offence for the arrest only related to drugs on four occasions. Three searches were justified on the basis that the officer believed hidden articles might result in self-harm and one custody record provided no information for the justification.

In relation to those strip searched the person was arrested for an offence of; common assault (5), criminal damage (6), vehicle/driving related (4), possession of drugs (4), breach of bail (3), theft, burglary, rape, possession of a blade and disorderly behaviour (5 separate cases),

The Human Rights Advisor found both the justification for the strip search and any justification for the failure to ensure that an Appropriate Adult was present were inadequately recorded. The absence of a proper record makes it difficult to assess whether any of the strip searches were lawful. The record keeping was also inconsistent across the 27 records that the Human Rights Advisor viewed. The majority of records cite Article 2 and Article 3 of the Human Rights Act summarily as the reason for the urgent need for the search. The lack of detail, in most cases, raises questions about whether a proper assessment occurred.

It is also unclear from the records what time the Appropriate Adult was called and requested to attend. The custody records show that, in some cases, there was a significant delay between the time that the detention was authorised and the time that an Appropriate Adult was contacted and then even greater delays before that person actually arrived. Very little information was given for any likely delay in arrival and, where delay was likely, no particular justification for going ahead in their absence. In one case the young person's detention is authorised at 8:13pm and the Appropriate Adult is not contacted until 10:00am the following morning.

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CONCLUSION

ANNEX

In another case the detention was authorised at 12:10am and the Appropriate Adult was contacted at 12:00pm. In both these cases the strip search took place without an Appropriate Adult being present. All of this is particularly important given that these juveniles regularly and perhaps predictably arrived in custody after 11:00pm and the Appropriate Adult, if not from Mindwise, is very unlikely to travel to the police station. This is also important as a potential strip search is only one element of the custody journey that an Appropriate Adult should be present for.

It is of the greatest concern that in the vast majority of cases identified by this research during 2022, the PSNI appeared to ignore the rules, and no one was present to support the young person during this very invasive and humiliating use of power by officers.

Flags/Markers

The majority of juveniles brought into custody will have ‘flags’²⁵. Whilst there is no specific PSNI policy on flags the following information has been provided by PSNI:

‘Any officer who completes the flags/warning training can add a flag with authorisation by an Inspector who sends a form to a NICHE admin. When adding a flag an end date can be added. Prior to expiration of the flag the person who created it will be prompted to review. A flag can be added with no end date so it can stay on the person indefinitely.’

There is a training package for those officers identified who need the ability to place flags/warnings on the NICHE system. This is covered in the PSNI Custody Sergeant training course, further detail in the next chapter.

Civilian Detention Officers (CDOs) will use these flags to ensure the safeguarding of the individual, e.g., including issues of previous incidents of self-harm or drugs. When considering the flags, the Independent Human Rights Advisor requested information on when and how often a review of the historical flags associated with an individual’s NICHE record would take place. In practice, only a very small number – two in 2022 – had anything concealed on them when they were in custody, suggesting that intelligence or evidence of drug use alone has not been and should not be a sufficient trigger for a strip search.

25 If an individual has come into contact with the police previously, they will have this recorded on NICHE, along with any flags.

Urgency

The risks of failing to search for and seize an item will, however, vary. For instance, the likelihood of trivial damage to property might be at one end of the scale whereas the possession of a blade combined with intelligence that the person is violent or is likely to self-harm will be at the other end. Even with intelligence of drug taking by the juvenile the urgency will vary – at one end the possession of cannabis or MDMA and at the other end the possibility of possessing heroin. Given the sensitivity of these kinds of searches and the risks of getting it wrong, custody officers should be provided with more detailed guidance and help on making sure, as far it is possible, to get it right. The disappointing lack of recording of the justifications for these difficult decisions is of real concern.

Secondly, and assuming that:

- a strip search is justified; and
- that the search must be carried out urgently;

In order to avoid a claim of breach of Article 8, and to justify setting aside the protection provided to the juvenile by the presence of an Appropriate Adult, the PSNI also have to comply with the proportionality test by demonstrating that there are no other alternatives to dispensing with the presence of an Appropriate Adult.

Alternatives might obviously include the supervision by officers or PSNI trained staff in a cell (with an open door) or in another suitable other room pending the arrival of the Appropriate Adult.

Reasons to dispense with the protection provided by the Appropriate Adult that relate only to the efficient workings of the custody suite would not, it is suggested, be sufficient to justify such an intrusive search.²⁶

Unfortunately, there is little evidence from the custody records that were examined by the Human Rights Advisor that any of this was considered before the strip searches were undertaken.

²⁶ An unexpected event resulting, for instance, involving very high workloads might, temporarily reach the urgency threshold. The new policy, see below, appears to follow this logic and suggests: "... unless there is a risk of serious harm that needs to be mitigated immediately we wait for the presence of an Appropriate Adult prior to any strip search taking place."

CHAPTER 7

TRAINING

All CDOs undergo five weeks of training and all Custody Sergeants receive four weeks. This training covers the legislation which provides the powers for a CDO, such as PACE and TACT, human rights law, considers the human rights impacts of strip search and their role and list of duties, using up to date case law to facilitate learning. There is an emphasis on safeguarding and risk assessment to keep those in custody safe. The training material is currently under review and updates are to be made regarding Annex A of Code C and the College of Policing APP guidance.

The Independent Human Rights Advisor and Board officials observed the training dedicated to the strip searching of juveniles. An element of the training focuses on strip searching, authorisations by the custody sergeant, explanations of the procedures to deal with property belonging to the detainee, the circumstances which may prompt a cell search, the powers available to custody staff to search detainees when detention has been authorised, and the circumstances where a strip search or intimate searches are appropriate. The training covers the urgency of a case, what must be recorded in the custody record relating to a strip search; the parts of the body searched, why they were searched, the authorisation by which the search was carried out, the grounds for authorisation, and the fact that the appropriate consent was given. The training covers what parts of clothing can be removed and how to carry out such a search. In the training on custody records it was reiterated that the custody record must record the justification for urgency, reason why/if the Appropriate Adult arrived late.

Under PACE, officers have the power to use reasonable force to carry out a search, the grounds for which are covered in the training. The use of force must be lawful, proportionate, should only be used after all other options have been considered and the actual force used should be in accordance with service guidelines and training.

In observing the training, Board officials noted that the PSNI trainer reiterated the role of the Appropriate Adult and the necessity for the Appropriate Adult to be present during strip search. It is the Independent Human Rights Advisor's understanding that Mindwise attend the training for a short session to provide an overview of their role and mental health more generally.

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CONCLUSION

ANNEX

CHAPTER 8

POLICY

As previously mentioned, following the concerns expressed about strip searching over the last year, the PSNI put in place a new policy (Annex B) from 27 January 2023, which states that:

“A strip search of a child without an Appropriate Adult is very much a last resort, all other options need to have been considered and exhausted prior to the search including placing the juvenile with a CDO or officer until such time that an Appropriate Adult arrives, if necessary, securing additional resources to do so.

... unless there is a risk of serious harm that needs to be mitigated immediately wait for the presence of an Appropriate Adult prior to any strip search taking place.”²⁷

The new directions also include:

- Detailed rationale must be recorded around the basis of a decision to authorise a strip search;
- Where a search is deemed urgent to prevent serious harm, the custody officer must clearly outline the serious harm to be mitigated and details all mitigations that had been considered and discounted prior to the strip search being authorised;
- All strip searches to be notified to the Chief Inspector with the lead responsibility for Custody matters who will review each case; and
- Where a Custody Officer determines the search to be urgent to prevent serious harm, they must outline the serious harm to be mitigated. In addition, they will record the mitigations considered, and why those were not able to sufficiently mitigate the serious harm risk, for example, by using an increased level of observation until an Appropriate Adult arrived.²⁸

27 Following a review of the strip searching of under 18s in police custody, the Police Service have taken additional steps and have put assurances in place to support policy change and ensure the use of such powers is open to scrutiny as follows;

1. New Policy and directions issued to all custody officers
2. Update to the Service Instruction for Person Searches
3. The use of the Service Accountability Panel to provide a mechanism for scrutiny of these searches Text of email that was sent out within PSNI is set out in Annex A.

28 PSNI response to a written question by Liz Kimmins, Member of the Policing Board, 2 February 2023.

PSNI stated before the new policy was implemented that:

‘Custody sergeants need to make a clear entry in the Detention Log as to why the strip search is deemed to be urgent and why they have proceeded without an Appropriate Adult being present, including why the alternative close proximity observation is not deemed to be appropriate. The rationale must be clear and consistent with the relevant College of Policing and Human Rights legislation.’²⁹

However, it is clear from the custody records for 2022 that there were a number of recording failures:

- Inconsistencies on how the strip searches were recorded, information on procedures and detailed justifications was limited at times;
- It was also difficult sometimes to ascertain from the records at what point the PSNI contacted the Appropriate Adult for the DP and what was the justification for any delays;
- It was sometimes difficult to know at what points the Appropriate Adult was present, including whether they were present for the actual search; and
- Where times were recorded there were significant delays in the Appropriate Adult attending custody, especially when the juvenile was arrested late at night.

New PSNI Policy

There were eleven strip searches of juveniles by the PSNI since the new policy was implemented on 27th January 2023.³⁰ The table at Annex E provides more details on the circumstances of those strip searched. The new policy sets out some ‘learning points’ and helpfully focuses on the important issues raised by the strip searching of juveniles and, hopefully, in relation to strip searching more generally. The policy requires the following changes or emphasises the key considerations in the current policy:

- The gaps in recording ‘is not a justifiable position and leaves individual officers and the Service open to criticism.’;
- ‘A strip search of a child without an Appropriate Adult is very much a last resort, all other options need to have been considered and exhausted prior to the search...’; and
- There ‘was a lack of consideration as to what was the serious harm/risk that justified the search being conducted urgently.’ ‘...it must not automatically follow that a strip search is an urgent strip search.’

29 Briefing regarding Strip Searching of persons Under 18s, PSNI report to the Performance Committee of the Policing Board, 9 February 2023.

30 Up to 1st May 2023. However, one person was in custody four times and strip searched each time. All of these searches led to a negative result but on a previous occasion in custody in December 2022 a concealed item was found.

The new policy and/or the media and Policing Board's focus on this issue appears to have made a difference to PSNI practice, however only one of the ten strip searches resulted in any suspected or dangerous item being found. Since its implementation many more of the juveniles strip searched had an adult present. The Policing Board will continue to seek data on these two aspects for the remainder of 2023.

Key Concerns since the new Policy

- Where a juvenile consulted an Appropriate Adult in advance of a strip search and decided to go ahead without that person being present it appears that, contrary to the PACE Code, this was not confirmed by the adult signing the custody record to this effect;
- In one case the Appropriate Adult 'was uncontactable' and the strip search went ahead despite this. It is not clear why an Appropriate Adult from Mindwise was not sought or, instead, the strip was delayed, and the person was put on close observation in the meantime (as is made clear in the new policy);
- In one case the custody record recorded 'Strip search authorised due to detained person (DP) demeanour and lack of co-operation.' Some more justification was provided in the newly instigated review by PSNI of all strip searches of juveniles (part of the 27th January policy), but the custody record should be more explicit. In one case there was no recorded authorisation in advance of the search but, again, details of a justification were supplied during the review process;
- In another case the only details given to justify the search were that there was a 'history of concealment' with nothing more specific;
- A strip search needs to ensure that the person is never fully naked (the top and bottom half of a person's body being examined in turn). However, as compliance with this rule was only sometimes recorded on the custody record it is difficult to know whether this rule was, in fact, complied with;
- In two cases juveniles were strip searched as if they were adults on arrival in custody and, therefore, without any consideration of their additional rights. It was not clear why these juveniles were not able to be identified and their date of birth established. Once their identity was established the error was discovered. In relation to those brought into custody who cannot be identified or their age established but who might be juveniles they should be treated as juveniles until the contrary is established.

Current Governance Arrangements

'The Service Accountability Panel (SAP) has recently been established and is a development of the Policing Powers Development Group which will provide community focused scrutiny of the use of all policing powers. The SAP is held on a quarterly basis and is chaired by ACC Operational Support Department. SAP will make the Police Service accountable for the use of policing powers and uses of force, including the use of strip searches of children and young persons.

The use of strip search powers will be tracked through the SAP and will be subject to scrutiny on an individual case by case basis and will ensure that the use of these powers are both necessary and proportionate to fulfilling the policing purpose.

The SAP's findings will be reported regularly to both the PSNI Strategic Management Board and to the Policing Board.

This mechanism will enable greater scrutiny for the use of contentious powers, including strip searches of children and young persons, and will allow for learning to be gained and improvements made to practices and policies when required.³¹

As previously mentioned, the issue of strip searches of children and young people was raised as far back as May 2022 where critical comments were made by a range of interested parties.³² Since the new policy was implemented, there have been eleven strip searches of juveniles and the Independent Human Rights Advisor has considered the custody records. No changes in policy since then can be detected by examining any of the cases from that point in 2022 until the changes made in January 2023. It is, therefore, difficult to detect any impact on the use of strip searches by the Service Accountability Panel.

Suffolk Constabulary has put in place a Custody Scrutiny Panel made up of two Independent Custody Visitors, an Office of the Policing Crime Commissioner's representative, an Independent Advisory Group (IAG) member and a Guest attendee at the request of the panel.

Their role is:

- To ensure that strip search powers used by officers of Norfolk & Suffolk Constabularies are lawfully conducted; recognising that these powers are useful in preventing harm, damage to property and interfering with evidence or evade escape;
- To ensure Strip Search use is rationalised in an appropriate manner, and documented correctly on Custody records;
- To improve the trust and confidence of the community in the way police conduct strip searches by being sensitive to the impact of these powers on individuals;
- To reduce disproportionality between searches of communities in Norfolk & Suffolk;
- To ensure the use of Rip Proof clothing is appropriate by Norfolk & Suffolk is proportionate and documented accurately, whilst maintain the custody strand of treating detainees with dignity;
- To ensure use of force is correctly justified and in accordance with powers conferred to Police;

31 Briefing regarding Strip Searching of persons Under 18s, PSNI report to the Performance Committee of the Policing Board, 9 February 2023.

32 The Detail, 'Calls for PSNI to stop strip searching children' 31 May 2021.

- To act as a constructive friend to the Constabulary and provide advice and guidance to improve its performance around stop and search;
- Scrutinise the performance of Norfolk & Suffolk Constabulary in relation to strip search of their communities;
- Examine extracted records for both Norfolk & Suffolk Constabularies to ensure that that the strip searches have been carried out in accordance with code C of the codes of Practice and APP on Safer Detention;
- Contribute to the Norfolk & Suffolk Constabularies custody standard operating procedure and raise for national consideration around APP on Safer Detention if appropriate;
- Provide the opportunity to raise issues regarding Race and Diversity that are broadly associated with Strip Search but may need ongoing management and oversight through other fora such as the Suffolk and Norfolk Coercive Powers Group; and
- To recognise any gaps in individual, or organisational learning, around the use of Strip Search and Rip Proof clothing, paying regard to the rationale around its use and the correct recording of rationale.

The panel consider the data and discuss lessons learnt. This learning or training need is then disseminated throughout the police service or in such cases as necessary, with individual officers. It is recommended that PSNI consider the establishment of a similar scrutiny mechanism.

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CONCLUSION

ANNEX

CHAPTER 9

HUMAN RIGHTS COMPLIANCE

Apart from the obvious issues of the dignity and the likely humiliation of children and young people having to remove their clothes in police stations in front of strangers and, the questions about whether PSNI are complying with the law and regulations, there are a number specific human rights issues involved and, therefore, compliance with domestic human rights law.³³

Firstly, in relation to Article 3 of the European Convention on Human Rights (ECHR), the prohibition of ill-treatment:

‘...where the search has no established connection with the preservation of prison security and the prevention of crime or disorder, issues may arise (*Wainwright v. the United Kingdom*, 2006, § 42).³⁴

Secondly, such action also raises questions about Article 8, the right to privacy:

‘...highly invasive and potentially debasing measures like body searches or strip searches require a plausible justification.’³⁵

‘There is no doubt that the requirement to submit to a strip search will generally constitute an interference under the first paragraph of Article 8 and require to be justified in terms of the second paragraph, namely as being “in accordance with the law” and “necessary in a democratic society” for one or more of the legitimate aims listed therein. According to settled case-law, the notion of necessity implies that the interference corresponds to a pressing social need and, in particular, that it is proportionate to the legitimate aim pursued...

Where procedures are laid down for the proper conduct of searches on outsiders to the prison who may very well be innocent of any wrongdoing, it behoves the prison authorities to comply strictly with those safeguards and by rigorous precautions protect the dignity of those being searched from being assailed any further than is necessary.’³⁶

33 The English courts considered the issue at least once but this was before PACE and the Human Rights Act, see *Lindley v Rutter* [1981] 128 Lord Justice Donaldson at 134.

34 Para 58, European Court of Human Rights, Article 3 Case Law Guide. There is similar jurisprudence from the United Nations Committee Against Torture – see para 30, Article 16, The United Nations Convention Against Torture: A Commentary, 2nd Edn, OUP, 2019, Nowak and others.

35 Para 75, *Deynek v Poland*, potential violation of Article 8.

36 Para 43 and 48, *Wainwright v UK*.

The UNCRC provides:³⁷

‘Article 3

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

Article 16

1. No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation.

Article 19

1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.’

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CONCLUSION

ANNEX

³⁷ However, there appears to be no detailed guidance on strip searching, see The UN Convention on the Rights of the Child: A Commentary, edited by John Tobin, May 2019, OUP.

CHAPTER 10

ENGAGEMENT WITH CHILDREN AND YOUNG PEOPLE

A fundamental issue to be considered is the potential impact of a strip search on a child and this does not appear to have been considered by PSNI. This is one of the concerns raised in our discussions with the Northern Ireland Commissioner for Children and Young People's Office and in the report by the Children's Commissioner in England and Wales.

It would be beneficial in the development of any new policy and review of training for PSNI to engage with an appropriate organisation to hear directly from children and young people subjected to the experience and address how this was explained to the child and to identify, what, if any follow-on support was/is provided. Practical measures could be put in place to support the young person and explain what is happening. There is a need to identify issues/conditions specific to the child e.g. if they have SEN, a disability and/or health condition as this could influence their understanding, interactions and overall impact of a strip search and the provision of follow on support would therefore be vital.

The case studies of some children strip searched and interviewed as part of the review in England and Wales by the Commissioner, highlight the lack of support provided to the child and calls for the need for the language used to change and for a trauma informed approach to be at the forefront to understand a child's circumstances. This was not addressed in the PSNI training observed.

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CONCLUSION

ANNEX

CHAPTER 11

DISCRIMINATION

The issue of discrimination on the grounds of religion has been an important one in Northern Ireland for many years and the positive duty on institutions set out in Section 75 of the Northern Ireland Act 1998 is a very important provision as a result.

The disproportionality indicated by the community background figures set out in the Statistics chapter raises questions about possible indirect discrimination. However, the global disproportionality figures in relation to those arrested and charged³⁸ may be the driver for these figures. The questions raised in this report should be considered in the context of recommendation 5 of the Human Rights Annual Report 2021/22.

Discrimination on the grounds of religion by public authorities is unlawful in Northern Ireland. The fact that the statistics indicate some kind of disproportionality does not necessarily mean that PSNI or its officers are involved in any intentional discrimination (which is obviously unlawful), but rather it might suggest unconscious unlawful indirect discrimination.

The Equality Commission defines indirect discrimination as follows:

‘There are three definitions of indirect discrimination:

- 1) A provision, criterion or practice is applied or would apply equally in a situation which puts certain people at a disadvantage and which cannot be shown to be a proportionate means of achieving a legitimate aim;
- 2) A requirement or condition is applied or would apply equally in a situation: where a considerably smaller proportion of certain people can comply with it; which is not justifiable; and which is to the detriment of the individual because they cannot comply with it; and
- 3) It covers not only individuals who are put at an actual disadvantage by a provision, criterion or practice but also individuals who would be put at such a disadvantage. This will therefore cover individuals who are deterred from trying to access a service because of a provision, criterion or practice.

38 see page 23 – 26 of the Human Rights Annual Report for 2021/22,
https://www.nipolicingboard.org.uk/files/nipolicingboard/2023-01/human-rights-annual-report-21-22_0.pdf

Like direct discrimination, indirect discrimination can be unlawful even if it is not intentional. For any comparisons to take place under indirect discrimination, the circumstances in the case should be the same or not materially different.³⁹

Article 14 of the ECHR also prohibits discrimination in relation to the exercise of all the other rights of the Convention:

‘The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.’

Evidence that any group of people (on the basis of their sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property birth or other status) is subjected to interference with their other rights more than equivalent others, is unlawful, unless there is an evidence-based, objective and reasonable justification for this.⁴⁰ It is unlawful regardless of the absence of intentional discrimination.

39 Emphasis added, <https://www.equalityni.org/Employers-Service-Providers/What-is-discrimination>

40 DH and Others v Czech Republic.

CONCLUSION

It appears that strip searching of juveniles followed a long standing custom and practice approach by PSNI, rather than that of the guidance provided by the PACE Codes. No one in PSNI appears to have thought this was unusual and no senior officer seems to have challenged this before questions were asked by agencies and NGOs, the media, or by Policing Board Members.

Given the very intrusive nature of a strip search (engaging Article 8 the right to privacy) and the need to ensure that any interference with privacy is properly prescribed by detailed rules, the test of urgency will need to relate directly to the reason for the search itself as set out in Article 4(a). The starting point for a decision to dispense with the requirement of an Appropriate Adult being present will be the nature of the article that the custody officer suspects will be found during the search.

It is particularly concerning that, despite the issue being in the media, the significant number of questions by Board Members and the creation of a new policy by PSNI, that the strip searches that have happened since January 2023 are still problematic.

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CONCLUSION

ANNEX

ANNEX A:

DEFINITIONS, REGULATIONS AND THE LAW

Searches, strip searches and intimate searches

According to the law, a strip search is any search conducted by police that involves removing more than the outer layer of clothing (i.e., jacket, gloves). However, for the purposes of this report, a ‘strip search’ is defined as a search exposing intimate parts (EIP), also known as a more thorough search exposing intimate parts (MTIP). The public, including children, generally understand a strip search to be one in which intimate parts are exposed. Police are able to strip search a child as part of a stop and search, or when the child is in custody. There is different, though inter-related, guidance for each case and the strip search is recorded and monitored in different systems. A strip search conducted under stop and search powers (PACE Code A) must be located in a location outside of public view, but not in a police vehicle; with no more than two people of the same gender as the person being searched present, one of whom must be an Appropriate Adult, except in cases of urgency where there is a risk of serious harm to the child or others; and the search must be conducted with regard for dignity, sensitivity, and vulnerability, and in a way that minimises embarrassment.

The legal definitions of strip searches conducted under stop and search powers, intimate searches, and strip searches are provided below.

(a) Stop and search in public

A ‘standard’ search of a person by the police in a public place is limited to the removal of outer clothing like coats, hats and gloves although the police have the power to use force to ensure compliance. This power is available in public if the officer has reasonable suspicion that the person being searched is carrying prohibited articles as set out in the Police and Criminal Evidence (PACE) Order 1989:

‘3.—(1) A constable may exercise any power conferred by this Article—

(a) in any place to which at the time when he proposes to exercise the power the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission;

or

(b) in any other place to which people have ready access at the time when he proposes to exercise the power but which is not a dwelling.

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11

CONCLUSION

ANNEX

(2) Subject to paragraphs (3) to (5), a constable—

(a) may search—

- (i) any person or vehicle;
 - (ii) anything which is in or on a vehicle,
for stolen or prohibited articles, any article to which paragraph (9) applies or any
firework to which paragraph (9A) applies; and
- (b) may detain a person or vehicle for the purpose of such a search.

(3) This Article does not give a constable power to search a person or vehicle or anything in or on a vehicle unless he has reasonable grounds for suspecting that he will find stolen or prohibited articles, any article to which paragraph (9) applies or any firework to which paragraph (9A) applies.⁴¹

There are similar powers under the Misuse of Drugs Act, the Terrorism Act and, the more expansive powers, not requiring the key ‘reasonable suspicion’ threshold, provided by the Justice and Security Act.⁴²

A police officer’s public stop and search power also allows the officer to take a person to a private place (including a police station) and to require a person to remove clothing. However, according to PSNI, this particular power was, apparently, never used in relation to children and young people in 2022.

(b) Intimate searches⁴³

What are described in the law as ‘intimate searches’ can only take place after a person is arrested and, whilst, in custody. Again, this power was never used in relation to children and young people in 2022.

‘An intimate search consists of the physical examination of a person’s body orifices other than the mouth. The intrusive nature of such searches means the actual and potential risks associated with intimate searches must never be underestimated.’⁴⁴

41 Police and Criminal Evidence (PACE) Order, 1989.

42 The Justice and Security Act does not require the officer to have reasonable suspicion, see the Policing Board’s Human Rights Annual Report 2021/22, page 47.

43 In 2021 a recent judgment in England clarified the rules which were changed to the PACE Act. Those changes in the PACE provisions were not altered in Northern Ireland. In England and Wales the police are now able to carry out invasive searches involving physical contact with body orifices that previously were categorised as an ‘intimate search’ and had to be carried out at a medical premises by medical professionals,

[Owens v Chief Constable of Merseyside Police \[2021\] EWHC 3119 \(QB\) \(11 November 2021\) \(baillii.org\)](#)

44 PACE Order, Code C, Annex A, para 1

(c) Strip searches

A strip search is:

‘a search involving the removal of more than outer clothing. In this code, outer clothing includes shoes and socks...

11(e) if necessary to assist the search, the detainee may be required to hold their arms in the air or to stand with their legs apart and bend forward so a visual examination may be made of the genital and anal areas provided no physical contact is made with any body orifice.’⁴⁵

It is this type of search which is the focus of this report, of which there were twenty seven cases in Northern Ireland in 2022.

The PACE Codes are complex and lack clarity as to which searches require an Appropriate Adult for children and vulnerable adults. 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. Understanding of rights, search procedures, and safeguards is very limited amongst children, vulnerable people, professionals such as teachers, and the public. There are a number specific human rights issues involved and, therefore, compliance with the domestic human rights law. These are set out in detail in the chapter Human Rights Compliance.

45 PACE Order, Code C, Annex A, para 9 and 11.

ANNEX B:

NEW POLICY FROM 27TH JANUARY 2023

Following a number of reviews of strip searches of juveniles there are some identified learning points that have necessitated additional assurances on how the power is being exercised.

The power to authorise a strip search is contained in Code of Practice C, Annex A. It states that:

- Where a juvenile is being subject to a strip search one of the two people present must be an Appropriate Adult;
- Exception for the Appropriate Adult requirement in cases of urgency where there is a risk of serious harm;
- Officer carrying out the search must be the same sex as the detained person;
- Must be in an area where the detained person cannot be seen by anyone who does not need to be there nor by anyone of the opposite sex (except a specific Appropriate Adult requested by the juvenile); and
- A person should only be asked to remove their top half clothing then re-dress before removing their bottom half of clothing.

Having reviewed the searches for 2021 it is evident there are often gaps in recording why it is necessary to conduct a strip search urgently, and therefore without an Appropriate Adult. This is not a justifiable position and leaves individual officers and the Service open to criticism. A strip search of a child without an Appropriate Adult is very much a last resort, all other options need to have been considered and exhausted prior to the search including placing the juvenile with a CDO or officer until such time that an Appropriate Adult arrives, if necessary securing additional resources to do so.

Whilst previous flags may provide a justification, along with other information, to authorise a strip search, it must not automatically follow that that strip search is an urgent strip search. However in reviewing records it was a lack of consideration of a separate decision as to what was the serious harm risk that justified the search being conducted urgently. This is not in accordance with PACE and must cease.

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CONCLUSION

ANNEX

The decision to strip search a juvenile in the absence of an Appropriate Adult being present may only take place ‘if the juvenile signifies that they do not want the adult to be present during the search and the adult agrees or in urgent cases’ as per Annex 11(c). Only in a few cases has the Custody Sergeant considered the alternative approach whereby the juvenile is kept on close proximity observation until the arrival of the Appropriate Adult.

To be very clear that this is NOT a direction to stop conducting strip searches of juveniles however PSNI need to ensure that it is adequately documenting this and that unless there is a risk of serious harm that needs to be mitigated immediately we wait for the presence of an Appropriate Adult prior to any strip search taking place. If officers have an issue with this it can be discussed and this will be an agenda item at the next internal PSNI custody operational group meeting.

Custody sergeants need to have a clear entry in the Detention Log as to why the strip search is deemed to be urgent and why they have proceeded without an Appropriate Adult being present, and why the alternative close proximity observation is not deemed to be appropriate, but the rationale must be clear, and consistent with the relevant Codes of practice and Human Rights legislation.

From 27 January 2023 the attached return is required within 24 hours of any strip searches involving Juvenile Detainees. Please have custody sergeants send direct to Chief Insp, responsible for auditing these searches in the future and providing accurate figures and information to ACC Justice and the Deputy Chief Constable. This will be reviewed to identify any learning or trends moving forward on a quarterly basis.

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CONCLUSION

ANNEX

ANNEX C:

RISK ASSESSMENTS

Risk assessments responsibility of the custody officer:

‘3.5A ...the custody officer is responsible for initiating an assessment to consider whether the detainee is likely to present specific risks to custody staff or themselves. Such assessments should always include a check on the Police National Computer, to be carried out as soon as practicable, to identify any risks highlighted in relation to the detainee.

Although such assessments are primarily the custody officer’s responsibility, it may be necessary for them to consult and involve others, e.g. the arresting officer or an appropriate healthcare professional, see paragraph 9.13. Reasons for delaying the initiation or completion of the assessment must be recorded.

3.5B The Chief Constable should ensure that arrangements for proper and effective risk assessments required by paragraph 3.5A are implemented in respect of all detainees at police stations.

3.5C Risk assessments must follow a structured process which clearly defines the categories of risk to be considered and the results must be incorporated in the detainee’s custody record. The custody officer is responsible for making sure those responsible for the detainee’s custody are appropriately briefed about the risks. If no specific risks are identified by the assessment, that should be noted in the custody record, see paragraph 9.14.

3.5D The custody officer is responsible for implementing the response to any specific risk assessment, e.g.:

- reducing opportunities for self harm;
- calling an appropriate healthcare professional;
- increasing levels of monitoring or observation;
- reducing the risk to those who come into contact with the detainee.

3.5E Risk assessment is an ongoing process and assessments must always be subject to review if circumstances change.⁴⁶

46 Code C, 3.5.

ANNEX D:

PSNI RESPONSES TO QUESTIONS FROM POLICING BOARD MEMBERS

Question from Board Member:

To ask the Chief Constable (i) for the PSNI's definition of an "appropriate adult" in the context of strip searching of Under-18s in a custodial setting (ii) how many appropriate adults are available to the PSNI to attend such searches (iii) what is the process followed by a Custody Sergeant to secure the presence of an appropriate adult (iv) what is the average time lapse between a Custody Sergeant requesting an appropriate adult and the latter's attendance and (v) under what other circumstances does the PSNI call upon the services of an appropriate adult. PSNI state that in the first instance, if a search is justified, it will contact a parent or guardian.

PSNI RESPONSE: ⁴⁷

(i) for the PSNI's definition of an "appropriate adult" in the context of strip searching of Under-18s in a custodial setting

The Police Service of Northern Ireland does not define 'appropriate adult' the definition is contained within the Police and Criminal Evidence (Northern Ireland) Order 1989 (PACE) Codes of Practice (COP) Code C Sct 1.7 (a)

'The appropriate adult' means, in the case of a:

(a) juvenile:

(i) the parent, relative, guardian or, if the juvenile is in care, a member of a care authority, or voluntary organisation;

(ii) a social worker;

(iii) failing these, some other responsible adult aged 18 or over who is not a police officer or employed by the Northern Ireland Policing Board.

(ii) how many appropriate adults are available to the PSNI to attend such searches

In the first instance the Police Service always try to contact the persons' parent or guardian.

However, for a variety of reasons this may not always be possible; we may be unable to contact them, or there are certain circumstances when PACE disqualifies the parent from being the Appropriate Adult.

⁴⁷ PSNI answer to written question by Mike Nesbitt, Board Member, 1 February 2023.

If the parent or guardian is unable to act as the Appropriate Adult, then the Custody Sergeant considers the Department of Justice (DOJ) Appropriate Adult Scheme. In Northern Ireland MindWise mental health charity launched the Northern Ireland Appropriate Adult Scheme (NIAAS)...

They have a total of 18 Appropriate Adults, both part time contracted and casual staff, and deliver a service 24/7, 365 days a year. Staff are available to all suites in Northern Ireland...

(iii) what is the process followed by a Custody Sergeant to secure the presence of an appropriate adult

The custody process for juvenile detainees mandates that their rights are overseen and countersigned by an Appropriate Adult. As soon as the Custody Sergeant is aware that an Appropriate Adult is required, they immediately implement steps to secure their attendance.

During the 'booking in' stage of the detention process, a juvenile detainee is informed that there is a requirement for an adult to be present and available to give them advice and guidance throughout their detention, and to ensure that their rights are being fully complied with. However, they are told that this advice is not legal advice, to which they have a separate right to access. They are informed that the Appropriate Adult is usually their parent or guardian. If it cannot be their parent or guardian, the reason why is explained to them and they will be asked if there is another relative that can act on their behalf. If no relative, or friend over the age of 18, is readily available to them, then they are informed that someone from the Northern Ireland Appropriate Adult (NIAAS) scheme will be contacted to assist them. They are also informed that in all cases their parent or guardian will be contacted to inform them they are in custody, even if they are not available to act as their Appropriate Adult.

The only time the detainee is not informed as outlined above, is if at that time they are incapable of understanding what is being said to them. On arrival of the Appropriate Adult at the police station, they are provided with written guidance as to their role, should this be required. The detained juvenile's rights are then repeated to them in the presence of the Appropriate Adult who is asked to countersign the custody record to evidence that the juvenile has been given their rights' under PACE in the presence of the Appropriate Adult...

(iv) what is the average time lapse between a Custody Sergeant requesting an appropriate adult and the latter's attendance.

The Police Service do not hold central data on the average time that it takes between the Custody Sergeant requesting an Appropriate Adult and their attendance. However, Mind Wise data indicates the average attendance for their staff is three hours.

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CONCLUSION

ANNEX

(v) under what other circumstances does the PSNI call upon the services of an appropriate adult.

PACE COP C Sct 1.4 outlines the circumstances that a person other than a Juvenile may require an Appropriate Adult

If an officer has any suspicion, or is told in good faith, that a person of any age may be mentally disordered or otherwise mentally vulnerable or has significant communication difficulties, in the absence of clear evidence to dispel that suspicion, the person shall be treated as such for the purposes of this Code. PACE COP C Sct 1.7 (b) outlines that in an Appropriate Adult is also required for a person who is mentally disordered or mentally vulnerable.

Question from Board Member:

Have PSNI have recorded the reasons why the 26 strip searches of Under 18s were all considered urgent and if so, to furnish those reasons?

PSNI response:⁴⁸

Of the 26 strip searches carried out, 25 were considered urgent due to the fact that the detainee had been previously ‘flagged’ as concealing either drugs or weapons that could be utilised to harm themselves or others. The 26th case involved an individual who had no such ‘flag’, but had been arrested for a drug related offence. The Custody Sergeant had reasonable cause to suspect the detainee may have been concealing further drugs because immediately prior to arrest Officers had recovered a bag of Class A and Class B drugs on their person.

The Police Services’ Niche Records Management System provides the functionality to assign a warning, or ‘flag’, against an individual’s record. This is used to inform others about any specific needs or associated risk factors.

Within the custody environment, if staff become aware of an incident that would pose a risk to the individual or any other person, for example, concealment of drugs, attempts at self-harm and so on, then a corresponding warning ‘flag’ outlining the area of risk/concern is created. The process for all arrests involves custody staff researching the arrested person on the Records Management System to establish if any warning flags exist, especially those that may have been created during a previous detention in police custody. This information is used to ensure the safety of the individual and others whilst they are detained.

48 PSNI Response to Supplementary Written Question by Mike Nesbitt, 30 January 2023.

ANNEX E:

TABLE OF STRIP SEARCHES

2022													
Custody Suite	Primary offence	Age & Gender	Ethnicity	Religion	Arrest Date and time	Time arrived at station	Time Detention Authorised	Time AA Contacted Time of AA Arrival	DP taken to Hospital Y/N	Time of arrival and return	Time of search	AA Present?	Result
Musgrave	Poss of Class A	17 M	White	No Answer	27/01/22 04:45	04:56	5:30	21:36/21:37	5:33/13:30	14:17	N	N	Negative
Musgrave	Breach of Bail	17 M	White	No Answer	02/03/22 23:06	23:44	00:12	13:43/13:44	2:09/10:38	00:07	N	N	Negative
Antrim	Threats to damage property	17 M	White	No Religion	16/03/22 20:26	20:58	21:25	21:41/21:43	N	21:30	Y	N	Negative
Musgrave	Criminal Damage	17 M	White	No religion	17/03/22 00:12	00:30	01:47	01:48/01:50	N	01:39	Y	N	Negative
Lurgan	Common Assault	17 M	White	Protestant	10/04/22 03:14	03:36	03:53	11:00/13:05	Y 03:53 06:49	07:06	N	N	Negative
Banbridge	Drugs	17 M	White	No Answer	06/05/22 21:45	22:25	22:42	23:00/01:00	N	22:51	N	N	Negative
Musgrave	Breach of Bail	17 M	White	No Religion	10/05/22 17:17	17:30	17:51	18:00/NA	N	17:46	N	N	Negative
Coleraine	Burglary	17 M	White	Roman Catholic	17/05/22 08:27	09:17	09:24	13:06/15:31	N	09:30	N	N	Negative
Omagh	Driving offences	17 F	White	Refused to Answer	21/05/22 13:10	14:20	14:45	09:32/10:00	N	14:43	N	N	Negative
Musgrave	Drugs	17 M	White	Protestant	25/05/22 21:10	21:28	23:50	23:52/00:51	N	00:40	Y	N	Negative
Musgrave	Theft	17 M	White	Refused to Answer	26/05/22 22:25	09:55	10:31	17:43/09:00	Y 22:30 09:55	10:18	N	N	Negative
Musgrave	Criminal Damage	14 F	White	Refused to Answer	27/06/22 16:07	16:44	18:23	17:35/18:45	N	19:27	Y	N	Positive
Musgrave	Theft of Vehicle	17 M	White	Roman Catholic	02/07/22 18:30	19:13	20:13	10:00/13:09	N	19:33	N	N	Negative
Musgrave	Poss Class B w/I to supply	17 M	White	Protestant	15/07/22 10:52	11:25	11:45	11:53/11:53	Y 14:25 13:34	11:39	Y	N	Negative
Musgrave	Poss article with blade/point	17 M	White	Protestant	23/07/22 20:43	21:00	21:28	21:37/21:37	N	21:12	N	N	Negative
Strand Road	Disorderly Behaviour	15 F	White	Roman Catholic	31/07/22 23:35	23:40	00:10	12:00/16:41	N	00:16	N	N	Negative
Musgrave	Poss Criminal property	17 M	White	No Religion	05/08/22 13:50	13:50	15:12	15:34/17:03	N	14:56	N	N	Negative
Strand Road	Common Assault	16 F	White	No Religion	06/08/22 00:30	9:10	11:33	19:26/19:50	N	11:41	N	N	Negative
Strand Road	Criminal Damage	17 M	White	Roman Catholic	02/09/22 00:35	01:20	01:40	09:15/15:03	N	01:46	N	N	Negative
Musgrave	Common Assault	17 M	White	Roman Catholic	23/09/22 22:46	23:22	23:44	23:46/23:46	N	23:36	N	N	Negative
Bangor	Common Assault	17 M	White	Roman Catholic	11/10/22 20:45	21:00	21:10	12:23/12:23	N	21:56	N	N	Negative
Strand Road	Common Assault	16 M	White	Roman Catholic	19/10/22 00:23	00:35	00:51	14:20/14:20	N	00:56	N	N	Negative
Strand Road	Breach of Bail	16 M	White	Roman Catholic	28/10/22 22:00	22:06	22:22	22:39/22:39	N	22:34	N	N	Negative
Strabane	Rape	17 M	Irish Traveller	Roman Catholic	11/12/22 15:37	17:32	19:25	14:38/14:38	Y 22:35/04:36	19:50	N	N	Negative
Musgrave	Taking a conveyance without authority	17 F	White	Refused to Answer	19/12/22 14:17	14:55	16:12	16:15/16:15	N	16:49	Y	N	Drugs found
Strand Road	Criminal Damage	17 M	Irish Traveller	Roman Catholic	22/12/22 01:45	02:23	02:04	19:21/19:28	N	03:05	N	N	Negative
Musgrave	Taking a motor vehicle without authority	17 M	White	No religion	26/12/22 19:02	19:20	20:03	20:19/20:19	N	19:55	N	N	Negative

2023												
Custody Suite	Primary offence	Age & Gender	Ethnicity	Religion	Arrest Date and time	Time arrived at station	Time Detention Authorised	Time AA Contacted Time of AA Arrival	DP taken to Hospital Y/N Time of arrival and return	Time of search	AA Present?	Result
Musgrave	Failing to Stop for police	17M	White	Refused to Answer	10/01/23 16:30	16:55	17:45	17:51 17:52	N	17:51	Y	Negative
Musgrave	Possession of Class A Controlled Drug	15 M	White	No Religion	01/03/23 00:21	00:45	01:14	01:46 02:19	N	02:31	Y	Negative
Banbridge	Attempted Criminal Damage	16 M	Irish Traveller	Roman Catholic	02/03/23 13:50	14:58	14:11	14:24 14:43	N	14:38	N	Negative
Musgrave	Detained on Breach of Bail Conditions	17 M	White	Refused to Answer	08/03/23 05:55	07:15	07:25	06:49 07:19	N	07:21	Y	Negative
Strand Road	Detained on Breach of Bail Conditions	17 M	White	Roman Catholic	11/03/23 05:23	5:28	05:41	09:09 15:31	N	07:06	N	Negative
Strand Road	Disorderly Behaviour	17 M	White	Roman Catholic	12/03/23 01:05	01:15	01:43	13:00 13:01	N	01:43	N	Negative
Musgrave	Common Assault	16 M	White	No Religion	16/03/23 00:12	00:34	00:43	07:48 09:27	N	01:22	N	Negative
Musgrave	Detained on Breach of Bail Conditions	17 M	White	Refused to Answer	21/03/23 10:24	10:24	11:32	11:18 11:22	N	11:25	Y	Negative
Musgrave	Possession of Class B Controlled Drug	17 M	White	No Religion	31/03/23 11:40	11:50	13:22	13:09 13:09	N	14:05	N	Drugs Found
Missing info	Detained on Breach of Bail Conditions	17 M	White	Refused to Answer	06/04/23 10:45	10:45	11:28	11:30 11:30	N	11:39	N	Negative
Musgrave	Detained on Breach of Bail Conditions	17 M	White	Refused to Answer	14/04/23 10:20	10:20	11:45	11:43 11:43	N	11:50	Y	Negative

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11

CONCLUSION

ANNEX

ANNEX F:

PSNI FORMS FOR APPROPRIATE ADULTS

OFFICIAL [PUBLIC]

NOTICE TO THE APPROPRIATE ADULT

1. Why Are You Here?

- (1) You have been requested to attend this police station to act as an appropriate adult in support of either a juvenile or a detainee who may be mentally disordered or otherwise mentally vulnerable.
- (2) You should **not** act as the appropriate adult if:
 - (a) you received admissions or denials from the detained person before you came to the police station; or
 - (b) you are involved in the offence/investigation in question; or
 - (c) you are a witness in the offence/investigation in question.

2. Your Role

- (1) You have a positive and important role. You should **not** expect to be simply an observer of what happens at the police station.
- (2) You are there to ensure that the detained person for whom you are acting as appropriate adult understands what is happening to them and why. Your key roles and responsibilities are as follows:
 - (a) To support, advise and assist the detained person, particularly while they are being questioned.
 - (b) To observe whether the police are acting properly, fairly and with respect for the rights of the detained person and to tell them if you think they are not.
 - (c) To assist with communication between the detained person and the police.
 - (d) To ensure that the detained person understands their rights and that you have a role in protecting their rights.
- (3) It is **not** your role to provide the detained person with legal advice.
- (4) Your conversations with the detained person are **not** covered by legal privilege.
- (5) Further guidance on your role is available from the custody officer.

FURTHER GUIDANCE FOR APPROPRIATE ADULTS

1. Rights of Detained Persons

- (1) When you arrive at the police station the custody officer must tell the detained person, in your presence, that they have the following rights:
 - (a) The right to have someone informed of his or her arrest.
 - (b) The right to consult privately with a solicitor and the fact that independent legal advice is available free of charge.
 - (c) The right to consult the Codes of Practice setting out the powers, responsibilities and procedures of the police.
- (2) These are **continuing** rights that may be exercised at any stage during the person's period in custody. However, there are some special times when some or all of these rights may be delayed.
- (3) The custody officer must also give the detained person a written notice of these basic rights, together with an additional notice of their other entitlements such as reasonable standards of physical comfort, adequate food and drink, access to toilet and washing facilities, clothing, medical attention, and exercise where practicable. That notice of entitlements should also mention the circumstances in which an appropriate adult should be available to the detained person.

2. Your Rights as an Appropriate Adult

- (1)
 - (a) To be told why the detained person is being held.
 - (b) To speak to the detained person in private at any time.
 - (c) To inspect the custody record of the detained person upon your arrival at the police station (where practicable) and at any time during their detention.
 - (d) To see copies of the notices and entitlements referred to above.
 - (e) To see a copy of the Codes of Practice setting out the powers, responsibilities and procedures of the police.
 - (f) To intervene in an interview if you feel it necessary and in the interests of the detained person to help them communicate effectively with the police. However, you should not answer questions on behalf of the detainee, or attempt to lead their answers.
 - (g) To ask for a break in any interview, either to seek legal advice or consult with the detained person (particularly if the interview is a lengthy one, or if the detained person is distressed or ill).

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CONCLUSION

ANNEX

- (2) You are entitled to be present during any procedure requiring information to be given by or sought from the detained person. Also, when any form of consent is sought from the detained person or they are asked to agree and/or sign any documentation. In particular, you are entitled to be present:
 - (a) When the custody officer informs the detained person of their rights and entitlements.
 - (b) When the detained person is cautioned.
 - (c) During any interview with the detained person at a police station.
 - (d) When the detained person is charged.
 - (e) Subject to strictly limited exceptions, during any search of the detained person involving the removal of more than outer clothing.
 - (f) When the need to keep the person in detention is reviewed.
 - (g) During any form of identification procedure such as a video identification.
 - (h) During any process involving the fingerprinting or photographing of the detained person or when a sample is taken from them.
- (3) You are **not** entitled to be present during private legal consultations between the detainee and their legal representative.

3. Legal Advice

- (1) You should consider whether legal advice from a solicitor is required. You should normally speak to the detained person in private before deciding whether legal advice should be requested.
- (2) The detained person can speak to a solicitor at the police station at any time. It will cost them nothing and they can speak to the solicitor privately either on the telephone or at the police station.
- (3) Even if you decide that a solicitor is not necessary when you first arrive at the police station, you can change your mind about that at any time.
- (4) Even if the detained person says that they do not want legal advice you have the right to ask for a solicitor if you feel that would be in their best interests.
- (5) However, while a solicitor can be called to the police station, the detained person cannot be forced to see them if they are adamant they do not wish to do so.
- (6) If you or the detained person request a solicitor to be called, you should tell the custody officer at once.

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CONCLUSION

ANNEX

4. Questioning

- (1) One of the main reasons for detaining a person at a police station is to ask them questions. The police should only ask the detained person questions in your presence, and before questioning begins the detained person should be cautioned in the following terms:

'You do not have to say anything, but I must caution you that if you do not mention when questioned something which you later rely on in court it may harm your defence. If you do say anything it may be given in evidence'.

- (2) Your main role is to ensure that in any interview that follows; the detained person understands the questions that are being asked and that the police do not ask questions in a way which is confusing, repetitive or oppressive.
- (3) Almost all interviews are audio recorded. There is a procedure for recording. In an interview you should not feel that you have to remain silent. You are entitled to intervene at any stage.
- (4) You should always make sure that when questions are being asked, the detained person understands them and the police understand the reply.
- (5) If you are unhappy about the way in which the interview is being conducted, then you are entitled to ask them to stop the interview so that legal advice can be taken from a solicitor.
- (6) Any queries or complaints about the conduct of the interview should be made to the custody officer.

5. Identification

- (1) In the course of the police enquiry they may well ask the person for their fingerprints, photographs, the giving of DNA samples or the taking of intimate or non-intimate samples. The rules for sample taking are complex and you and the detained person may wish to take legal advice before agreeing to any of these requests by the police.
- (2) Similarly, the police may ask the detained person to agree to take part in a video identification or other identification procedure that could include an identification parade, in a group or through a confrontation.
- (3) These too can be complex and you and the detained person may wish to take legal advice before consenting to or refusing to take part in any of these procedures if asked to do so by police.

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CONCLUSION

ANNEX

6. How Long can a Person be Detained?

- (1) The custody officer should ensure that police enquiries are conducted as quickly as possible and that detained persons are released as soon as the need for detention has ceased to apply. A person may be detained for up to 24 hours without charge, having had their detention reviewed by the review officer. A person in police detention for an 'indictable offence' can only be detained for longer than 24 hours on the authority of a Superintendent or a court. If the police suggest that they wish to detain a person for longer than 24 hours then the detained person should take advice from a solicitor.
- (2) **Detaining a juvenile or a mentally vulnerable person for longer than 24 hours will be dependent on the circumstances of the case and with regard to the person's:**
 - (a) special vulnerability;
 - (b) the legal obligation to provide an opportunity for representations to be made prior to a decision about extending detention;
 - (c) the need to consult and consider the views of any appropriate adult protecting the interests of a juvenile or mentally vulnerable person; and
 - (d) the alternatives to police custody.

7. What Happens Next?

- (1) At the end of a police investigation the custody officer will consult with the officer in charge of the case before deciding whether to release the detained person from custody without charge, or to release them from custody to come back to the police station for a further interview on another day, or to charge them and if so, whether to keep them in custody to appear before the next available court or release them on bail to appear in court on a future date.
- (2) You should be present at the time when the detained person is told of this decision and, if the person is charged with an offence, when the charge is read to them. If the detained person is to be charged or cautioned, the police may want to take photographs, fingerprints and perhaps a DNA swab from the mouth and/or a sample of body hair. You will need to be present for all of these procedures.

8. People You May Meet at the Police Station

(1) **Custody Officer**

The custody officer is the person responsible for the welfare of people in custody. The custody officer is not involved in the investigation of the offence therefore; if you have any concerns regarding the welfare of the person you are there to assist, you should bring these to the attention of the custody sergeant.

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CONCLUSION

ANNEX

(2) **Officer in Charge of the Case**

This is the officer responsible for investigating the crime that is suspected. They would usually conduct interviews with the detained person and should not question the detained person except in your presence.

(3) **Review Officer**

Usually an Inspector rank or above who is not directly involved in the investigation. Under normal circumstances a person's detention is reviewed not later than 6 hours after they first arrive at the police station and if they are detained longer, it will be reviewed at intervals of not more than 9 hours after the first review. It is the review officer's job to ensure that the reasons for detention still exist and the case is being dealt with expeditiously. The detained person, the appropriate adult, or a solicitor, can make representations to the review officer about the continuing need for detention or any connected matter of concern.

(4) **Defence Lawyer**

A defence lawyer is a solicitor or representative who is independent of the police, and whose job it is to protect and advance the legal rights of the detained person. They are required to act in the best interest of the detained person.

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CONCLUSION

ANNEX

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DOCUMENT TITLE

Human Rights Review - Children and Young People:
Strip Searching in Police Custody

ONLINE FORMAT

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