



AYM response to
Consultation on Revised PACE codes A and C
10th June 2024

The AYM (Association of YOT Managers):

The AYM is a professional association representing most of the Youth Offending Teams (YOT's)/Youth Justice Services and their managers in England.

Section 39 (1) of the Crime and Disorder Act 1998 requires the co-operation of the named statutory partners to form a YOT. Section 38 (1, 2) identifies the statutory partners and places upon them a duty to co-operate in order to secure youth justice services appropriate to their area. These statutory partners are the local authority, police, the probation service, and health. To support the YOT, additional partners may also be recruited to the joint strategic effort to prevent offending by children and young people.

The Association is able to draw on the wealth of knowledge and the breadth of members' current frontline practice and experience to promote public understanding of youth crime issues and to play its part in shaping the youth crime agenda.

Our members run services providing community-based supervision for children and young people who offend, or at risk of offending. We also work with children sentenced to custody and work closely with staff in the youth secure estate to ensure that young people receiving remand and custodial sentences experience effective resettlement back into the community.

Consultation Response:

The AYM welcomes the opportunity to provide a response to this consultation on revisions to the PACE (Police and Criminal Evidence Act) 1984, Code of Practice A and C. The AYM broadly welcomes the changes being proposed as they reflect a fair, proportionate, and sensitive approach we would expect for our children when it is deemed necessary to conduct an EIP (exposure of intimate parts) search.

However, we would request that consideration be given to some changes of language and terminology in order to make some of the proposed changes explicitly clear. We would also wish to seek clarification about the meaning of some of the proposals as detailed below:

PACE Code C:

a) requirement for police custody officers to consult an officer of at least the rank of inspector prior to conducting an EIP search of a child or vulnerable person in custody.

The AYM welcomes this development in the requirement for a more senior officer to be consulted.

b) Clarify that if any time, an officer has reason to suspect that a person may be under 18, in the absence of clear evidence to dispel that suspicion shall be treated as a child for the purpose of the code and any other code.

The AYM welcomes this amendment that ensures there is no presumption of adulthood when it is unclear.

c) Introduce new requirement to notify a parent/guardian of the search and its outcome as soon as practicable when an EIP strip search takes place, prioritising before a search if practicable and where this is not possible (e.g., when parent / carer cannot be identified) this should be recorded.

Whilst the AYM understands that an EIP search may need to be conducted, and in some circumstances, there may be a level of urgency, we would seek clarification of what is meant by 'practicable'? This is a proposal we would like to see strengthened in terms of the language and circumstances when this would apply, to ensure the parameters are clear to frontline officers within the custody suite.

d) Add a paragraph to the PACE Codes which makes clear the potentially traumatic impact of the strip searches on children, the officer's duty to give due regard to safeguarding needs, to take appropriate action to ensure the child's dignity, rights and welfare are primary considerations, and to seek and give due regard to the child's preferences with respect to considerations such as the location of the search and the notification of a parent or guardian.

The AYM agrees this is a positive additional paragraph, as it highlights the complexity of EIP searches and importance of considering the impact a strip search may have upon a child, as the paramountcy principle is enshrined in Children's Act legislation and therefore applies to all matters that apply to dealing with children. However, again we would welcome assurances that all staff operating in the custody suites are provided with current evidence-based practice on the range of neuro-diverse conditions that are prevalent in justice-involved children, and that accredited training, including trauma-informed, is promoted, and reflected in front line practice.

Furthermore, the AYM would ask what scrutiny and assurance checks are being implemented at a senior level to ensure appropriate decision-making was taken, and how this impact can be measured.

Whilst we recognise the child-first principles '*to seek and give due regard to the child's preferences with respect to considerations such as the location of the search and the notification of a parent or guardian*', the AYM view is that the default position should be all searches should have an Appropriate Adult present, and the parent/carer should be informed. Additionally, the LA should be contacted, as appropriate, as they often have a wealth of information about a child's individual needs, circumstances and experiences that will support the police to conduct this in a child-first way.

e) Introduce a new requirement to notify an officer of the rank of at least superintendent as soon as practicable following any urgent strip search of a child or vulnerable adult – ie, where no appropriate adult was present.

The AYM welcome the escalation in notification being at the rank of at least a superintendent but would ask for consideration to be given to amending Code C (e) above, so that it is explicitly clear that the default position for all strip searches relating to children is to always to have an Appropriate Adult present, especially in the event of an EIP search. We would also request that any reasons in which an Appropriate Adult was not present be clearly recorded to explain the exceptional circumstances or level of urgency, for example an imminent risk to their life.

f) Require that a safeguarding referral should be made whenever a EIP search or an intimate search of a child takes place.

The AYM would ask that a notification is made a default requirement, to strengthen the seriousness of the safeguarding required in these circumstances.

g) Clarify that appropriate adults of the opposite sex can only be present during strip search if known to the detainee, and the detainee agrees.

The AYM welcomes this clarification.

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

The AYM recognises that this applies to police procedure.

PACE Code A:

a) Introduce a new requirement that any search of a child or vulnerable person involving the exposure of intimate parts (EIP), conducted under stop and search powers, must be authorised by an officer of at least the rank of Inspector.

As above in Pace Code C (a) the AYM welcomes this development in the requirement for a more senior officer to be consulted for authorisation. However, data shows that the use of Stop and Search is disproportionality used on children from ethnically diverse communities, and particularly on black and mixed heritage boys, who are overrepresented in the criminal justice system; therefore, the AYM would ask what scrutiny and assurance checks are being implemented to monitor appropriate decision-making, and how this will be measured, recorded, and responded to?

b) Replicate as far as is relevant in Code A the Code C provisions on the conduct of a strip search, as set out above. This is to ensure that provisions on EIP searches in Code A are self-contained.

AYM responses contained in Pace Code C, whilst recognising that Stop and Search can occur in a range of external environments; therefore, the need for oversight and scrutiny is even greater.

In summary, the AYM welcomes the revisiting of these PACE Codes of Practice and largely agrees with the proposals outlined, notwithstanding the comments above.

The AYM would further request that all references to 'juveniles' be replaced with 'child/ren' in line with accepted 'child first' terminology and child-centred policing.

The AYM would also ask that consideration be given to producing a child-friendly version of the PACE Codes of Practice so these could be provided to children in custody, and parent/carers would also have the opportunity to go through them. This may assist in their understanding of what has happened to them and what they can expect whilst they are in detention.

The AYM strongly holds the view that no child should ever be subject to an EIP without the presence of an Appropriate Adult unless all options had been exhausted, and/or there was a risk to life by not conducting the search immediately. Clarity on what constitutes 'serious harm' needs to be reflected in the final guidance.

The AYM seeks clarification around what the threshold of urgency is, and a clearer understanding of what is meant by 'practicable' including the specific circumstances when this wouldn't apply, including delayed notification to parents/carers and contacting Appropriate Adults.

The terminology used in the revised guidance needs to be revisited so that it is understood at all ranks and staff levels, so there is no room for misinterpretation.

The AYM would suggest that the recommended training, including neuro-diverse and trauma-informed training, is included within the annual CPD, not just for new officers but also as a refresher for existing officers.

Completed by:

- **Jacqui Belfield-Smith** (Chair of the AYM)
- **Kay Dargue** (AYM, North-East Regional Rep)

AYM Joint Portfolios Leads for Children in Police Custody.

On behalf of the AYM (Association of YOT Managers)

June 2024