

# **NORTHERN IRELAND POLICING BOARD**

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## **TERMS OF REFERENCE REVIEW OF PSNI'S STRIP SEARCHES OF CHILDREN AND YOUNG PEOPLE IN CUSTODY**

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### **1. INTRODUCTION**

The issue of strip searches of children and young people in custody after arrest has been the subject of scrutiny by the Board through its Performance Committee with enquiries also made by its Human Rights Advisor (included in a letter 28<sup>th</sup> June 2022) which was followed by a report from the Police Service of Northern Ireland (PSNI) to the Performance Committee. [Members have also asked a series of questions of the Chief Constable.](#)

The issue was originally raised by organisations in the children's sector at a PSNI Youth Champions meeting in May 2022 with more in-depth discussion from the Children's Law Centre and reporting within the media. Apart from the issue of the reliability of the figures initially provided by the PSNI and discrepancies in the oral answers provided at the Board meeting in December 2022, there appear to be two substantive issues.

The first concerns the nature of the intelligence or evidential basis for the strip search, given the absence of items subsequently found by the PSNI in the majority of cases. The second issue concerns the fact that, in the majority of cases, the need for the search was classified as urgent and, as a result, no appropriate adult was present.

The PSNI have stated that the searches and the absence of appropriate adults were justified, but this has been questioned by Board Members and challenged by the Children's Law Centre. There is therefore apparently a significant impasse, with PSNI claiming that the proper procedures were followed, and the proper safeguards were in place, and others challenging this premise, but not having any access to the documents or other evidence held by PSNI.

Following discussion at the 9 February 2023 meeting, it was agreed that the Board's Human Rights Advisor should review the compliance with human rights in how the PSNI addresses children and young people and the process of strip searching in custody.

The Terms of Reference, which were agreed at the Performance Committee meeting, are in the next section.

### **2. TERMS OF REFERENCE**

The Policing Board will assess the compliance with human rights in how the PSNI addresses 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 27<sup>th</sup> 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 detailed 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.

### 3. **DEFINITIONS**

#### Strip search

*'1. 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'<sup>1</sup>*

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<sup>1</sup> PACE Order, Code C, Annex A, para 9 and 11

#### 4. PROPOSAL

The Policing Board Human Rights Advisor will investigate this issue in more detail by examining the specific custody records and any other documents held by PSNI (including the CCTV in the custody suites) of all of those 26 children and young people strip searched in 2022. An anonymised report for the Performance Committee and/or for publication will be produced. The Human Rights Advisor has discussed this with PSNI and believes that all the material needed to investigate these cases is available centrally.

The justification for such searches is often derived from ‘flagging’, information already held by PSNI systems on the person subjected to the search, usually as a result of previous visits to custody, including warnings about the likelihood of possible self-harm.

In relation to the presence of an appropriate adult it appears that in many cases the parents of the child or young person often do not attend and, although there is a system for calling independent appropriate adults, this creates delay.

The PSNI now recognise the importance of the issue and, on 27<sup>th</sup> January 2023 a new system was put in place, including better recording of the reasons and justifications:

*‘Officers have been instructed that where a strip search is authorised on a child or young person there must be a detailed rationale recorded of the basis of that authorisation.’<sup>2</sup>*

#### Human Rights Compliance

Apart from the obvious issues of children having to remove their clothes in police stations and questions about whether the PSNI are complying with the law and regulations (PACE Order and Annex A to PACE Code C) there are specific human rights issues. In particular, in relation to Article 3, the prohibition of ill-treatment and it 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.’<sup>3</sup>*

#### **NORTHERN IRELAND POLICING BOARD FEBRUARY 2023**

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<sup>2</sup> Response to Liz Kimmins question of 19<sup>th</sup> January 2023.

<sup>3</sup> Para 75, Deynek v Poland, potential violation of Article 8

 028 9040 8500

 [information@nipolicingboard.org.uk](mailto:information@nipolicingboard.org.uk)

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#### DOCUMENT TITLE

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**Terms of Reference**  
**Review of PSNI's Strip Searches of**  
**Children and Young People in Custody**

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