

By National Appropriate Adult Network (charity, www.appropriateadult.org.uk)

Home affairs, crime, policing, social services, mental health, learning disability, autism, national, local

Over 300,000 police detentions and voluntary interviews of mentally vulnerable suspects may be at risk of producing unreliable evidence due to lack of ‘appropriate adult’ support, finds update on report commissioned by Home Secretary.

A report has found that more than 300,000 police detentions and voluntary interviews per year of vulnerable people who have a mental illness, learning disability, brain injury or autism spectrum condition, may have been carried out **without the support of an ‘appropriate adult’ (AA)** - despite it being required by the Police and Criminal Evidence Act 1984 (PACE) Codes of Practice.

Clinical interviews have previously shown that **39% of adults in police custody have a mental disorder**, including mental health and learning disabilitiesⁱ, suggesting AAs may be required over 384,000 times.

However, using data from police forces in England and Wales, *There to Help 3*, published by the National Appropriate Adult Network (NAAN)ⁱⁱ, found in 2018/19 **the need for an AA was recorded:**

- In only **6.2% of over 831,000 detentions** of adults and
- In only **3.5% of over 150,000 voluntary interviews** of adults
- At rates of **between 0.1% and 25% in different local police forces**

Identification of vulnerable suspects has been slowly improving, from under 3% in 2012/13, to around 6% in 2017/18. In August 2018, the Home Office radically redefined vulnerability and introduced new requirements on police. Following this, rates in custody did not significantly increase and worsened in voluntary interviews. In 2018/19, the need for an AA was recorded 57,000 times, meaning vulnerable adults who met the criteria for mandatory support may have been missed up to 327,000 times.

Using data shared by NHS England Liaison and Diversion (L&D), which identifies people who have mental health, learning disability, or other vulnerabilities in police custody, researchers foundⁱⁱⁱ:

- On average, **forces with access to L&D services recorded higher rates** of AA need; but
- **4 out of 5 L&D clients had no AA** and **of these 68% at least one mental health issue** at the time.

The report was co-authored by Chris Bath, chief executive of NAAN, and Dr Roxanna Dehaghani, senior lecturer in Law at Cardiff University). Dehaghani previously spent six months observing in custody researching her book on how police deal with vulnerability.^{iv} The authors identify a range of factors contributing to the issue, including:

- A **lack of tools, training and guidance** to help police officers identify and record vulnerability
- A **lack of consequences** for investigators and prosecutors, with most cases never being tested in court, and courts rarely excluding evidence obtained in breach of the legal safeguards
- A **lack of availability of independent AA services** for vulnerable adults in some areas, because local councils are only legally required to provide AAs for children.

Chris Bath FRSA, chief executive of the National Appropriate Adult Network, said, “Front line police officers have an incredibly difficult job. As a minimum, they deserve reliable tools to implement the complex rules about vulnerable suspects – and for there to be independent appropriate adult schemes available when needed. Beyond that, the sheer scale of vulnerability amongst suspects raises questions about whether we are asking police to pick up the pieces from failures elsewhere”.

Dr Roxanna Dehaghani, Cardiff University said, “Appropriate adults facilitate effective participation and ensure fairness within the first - and often only - stage of criminal proceedings. Despite the importance of this safeguard, uptake remains worryingly low. Much more progress must be made to ensure that vulnerable people are given the support to which they are legally entitled.”

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For report downloads: www.appropriateadult.org.uk/policy/research/theretohelp3

For comment

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Notes to Editors

- The [National Appropriate Adult Network](http://www.appropriateadult.org.uk) (NAAN) is a registered charity and membership organisation set up by frontline practitioners. NAAN’s President is Lord Patel of Bradford OBE and it has around 90 member organisations across England and Wales. It is the centre of expertise on appropriate adults. It does not provide AAs. The charity wants to see that every child and vulnerable adult detained or interviewed by police has their rights and welfare safeguarded effectively by an appropriate adult.
- The AA role was established by Parliament under the Police and Criminal Evidence Act 1984 [Codes of Practice](#), following miscarriages of justice against vulnerable people – in particular false confessions. In 1972 Colin Lattimore, an 18 year old with a mental age of 8, was convicted of manslaughter alongside two boys aged 14 and 15. Confessions were elicited after hours of interrogation, alleged intimidation and assault by police; all without legal, parental or other adult advice. After years of incarceration, new evidence proved their innocence and a public outcry led to first to the Royal Commission on Criminal Procedure 1981 and then to the PACE Act 1984.
- Under PACE Code C, police must secure an appropriate adult for suspects that are under 18 or whom they have reason to suspect may be a vulnerable person.

- The AA role provides *children* and *vulnerable adults* with support, advice and assistance to protect their welfare, ensure they understand what is happening, and can use their rights – such as the right to legal advice^v. The role is defined in [PACE Code C](#) paragraph 1.7A.
- Under PACE 1984, courts may refuse to admit evidence that was gained without an appropriate adult present (sections 76-78 Confessions, Confessions by mentally handicapped persons, and Exclusion of unfair evidence). In addition, courts have quashed convictions on appeal as a result of no AA being present.
- While AAs are often family members, this is not always possible. This is when locally organised schemes are relied upon – many delivered by volunteers.
- The [original There to Help report](#), commissioned by Theresa May, was published in August 2015. As Home Secretary, Theresa May responded saying^{vi}, “*the priority must be to act to ensure that vulnerable people are provided with the support they are entitled to*”.
- Despite being a key recommendation of There to Help (2015), local authorities are only legally required to run schemes for children, not for vulnerable adults.
- The Home Office changed the definition of who is considered vulnerable under PACE Code C in July 2018. Previously an AA was required whenever an adult had any mental disorder or was otherwise mental vulnerable. The revised Code sets out a [more complex functional test](#). *There to Help 3* covers the period during which change occurred.
- All 43 local police forces across England and Wales, plus British Transport Police, provided responses under the Freedom of Information Act, [which are all publicly available](#).
- There to Help 3 provides data at the local police force level. AA schemes are organised and provided locally, normally at local authority level. A [map of AA schemes is available online](#).

ⁱ McKinnon I. and Grubin, D. (2013) Health screening of people in police custody – Evaluation of current police screening procedures in London, UK. *European Journal of Public Health*. 23(3):399-405, found that 38.7% of adults in police custody had mental disorders including mental illness and intellectual disability according to clinical interviews.

ⁱⁱ The National Appropriate Adult Network is a registered charity that seeks to ensure all children and vulnerable adult suspects have an effective appropriate adult.

ⁱⁱⁱ NHS England [Liaison and Diversion](#) conducts screening and assessments for vulnerability in police custody.

^{iv} Dehaghani, R. (2019) *Vulnerability in police custody: police decision-making and the appropriate adult safeguard*. Routledge. URL: <https://www.routledge.com/Vulnerability-in-Police-Custody-Police-decision-making-and-the-appropriate/Dehaghani/p/book/9781138094604>

^v Legal advice is not mandatory. Children and vulnerable adult suspects are often discouraged from taking legal advice due to unfounded fears, such as believing they have to pay, that it suggests that they are guilty, or that they do not need one because they know they are innocent.

^{vi} [Home Secretary at the Policing and Mental Health Summit](#). October 2014.