The provision of appropriate adult services in England and Wales

Information for nurses and other health care professionals working in police custody suites

The appropriate adult role was created in the Police and Criminal Evidence Act 1984 (PACE). The role of the appropriate adult is to act as a safeguard for the vulnerable person. The appropriate adult will help to ensure that the detainee's rights are respected, and that they are able to understand what is going on and to be understood. It is not the role of the appropriate adult to give legal advice. The rights and responsibilities of appropriate adults are detailed in the PACE Codes of Practice (primarily in Code C[1]).

An appropriate adult must be called for any juvenile (up to and including those aged 16) or vulnerable adult in police custody. There is no precise definition of mental vulnerability but the Codes state that:

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, in the absence of clear evidence to dispel that suspicion, the person shall be treated as such for the purposes of this Code (Code C 1.4)

Thus a detainee does not have to have a recognised mental illness or learning disability to be classed as mentally vulnerable. The assessment of vulnerability should take account of the detainee's current situation or behaviour and also his or her history which may indicate likely vulnerability. If a health care professional (HCP) is in any doubt about a detainee's mental state they can and should ask the custody officer to request an appropriate adult. However, it is the custody officer, and *not* the forensic medical examiner (FME), custody nurse or other health professional, who should make the decision. If the custody officer asks the HCP for advice about this, the HCP should be aware that the threshold of vulnerability under PACE is very low. It could be argued that if the custody officer is concerned enough to ask for advice the threshold has already been met. When in any doubt at all, an appropriate adult should be called to safeguard both the interests of the detainee and the legitimacy of the process.

For both juveniles and vulnerable adults the appropriate adult can be a parent, relative, carer, mentor, social worker or other professional or:

Failing these, some other responsible adult aged 18 or over who is not a police officer or employed by the police (Code C 1.7)

Appropriate adults for Juveniles

The Crime and Disorder Act 1998 gave the local authority, through the youth offending teams (YOTs), the statutory responsibility for ensuring the provision of an appropriate adult service for juveniles (under 17) when parents or carers were not available. Thus there should be in every area an appropriate adult service run directly by the YOT or by a voluntary (or private) sector agency on their behalf. This should be operated on a rota basis providing cover from around 8am to 11pm or midnight. The appropriate adults may be paid staff, sessional workers or volunteers.

[1] http://www.homeoffice.gov.uk/publications/police/operational-policing/pace-codes/pace-code-c-2012?view=Binary

There is currently no formal requirement for appropriate adults to be trained. However, 'professional' appropriate adult services[2] should meet the requirements set out in the Youth Justice Board's Case Management Guidance[3], and NAAN's National Standards[4]. These state, for example, that appropriate adults should respond within two hours of call out, that they are Disclosure and Barring Service (DBS) checked and should have received at least 18 hours training. Whichever agency provides appropriate adults for juveniles, the YOT retains ultimate responsibility for this service.

Appropriate adults for Vulnerable Adults

Currently no statutory authority has the responsibility for the provision of an appropriate adult service for vulnerable adults. The services therefore vary across the country. In nearly half of the country, there is some sort of organised scheme run on similar lines to services for juveniles, with appropriate adults (either paid or volunteers) being DBS checked, trained and supported. In other areas the service is at best ad hoc, with perhaps the local social services emergency duty team (EDT) responding to requests if they have no higher priority.

Issues

- Appropriate adults have the right to request a solicitor even if the detainee has not done so. The detainee can refuse to see the solicitor when he or she arrives but in almost all cases, an effective appropriate adult will be able to persuade, advise and guide the detainee to see the solicitor.
- Appropriate adults (like HCPs) are not covered by legal privilege. The AA and detainee need to be aware that although the appropriate adult is bound by a duty of confidentiality, they could be (and very occasionally are) called as a witness.
- Appropriate adults should be present during all identification procedures for juveniles and vulnerable adults. They can and should witness requests for consent to any procedure but cannot give consent on behalf of the detainee. (Code D 2.12, 2.15).
- Appropriate adults have the right to see (and have a copy of) the full custody record of the detainee. They also have the right to see any separate medical report with the explicit consent of the detainee.
- In areas without a formal AA scheme for vulnerable adults in place, evidence suggests that the police are much less likely to identify vulnerability in adults. They also generally under-identify vulnerability in 17-year-olds who are classed as adults under PACE, though treated as children in other UK legislation.

The National Appropriate Adult Network (NAAN), a registered charity, is the national membership body supporting and representing organisations providing appropriate adult services in England and Wales. For further information visit: www.appropriateadult.org.uk

The Royal College of Nursing is a UK professional organisation and union which represents nurses and nursing, promotes excellence in practice and shapes health policies. For further information visit: www.rcn.org.uk

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[2] Services using trained and DBS checked appropriate adults, whether paid or volunteer, provided directly by YOTS or local authorities, or by voluntary or private sector organisations who attend when parents, family members or carers are unavailable.

[3] http://www.justice.gov.uk/downloads/youth-justice/improving-practice/CaseManagementGuidanceSection3Bailandremandmanagement.pdf

[4] http://www.appropriateadult.org.uk/national-standards