National Appropriate Adult Network

NAAN | Policy

Response to the HMIC/HMIP consultation on the revised draft of Expectations for Police Custody

December 2015

National Appropriate Adult Network

NAAN is a charity and membership organisation working in England & Wales. Our vision is that every child and mentally vulnerable adult who is detained, or otherwise questioned by police, is supported by an effective appropriate adult.

Our membership is open to all with an interest but is principally constituted of organisations delivering appropriate adult schemes.

Our mission is to gather, develop and share knowledge, skills and standards that inform, inspire and support effective appropriate adult policy and practice.

Both children and mentally vulnerable adults are more likely to be drawn into the criminal justice system and face significant disadvantages within it. They often report not understanding what was happening to them or why; being uncertain about what to say or do; feeling alone and not knowing to whom to turn for support.

Such circumstances not only undermine the welfare of these individuals and threaten to exacerbate their vulnerabilities, they put them at increased risk of providing information to the authorities which is inaccurate, unreliable of misleading – and thus, ultimately, at risk of miscarriages of justice.

In order to mitigate these risks, the police are required to secure an appropriate adult whenever they detain a child or mentally vulnerable adult, or interview them voluntarily.

Effective appropriate adults ensure a fair process by supporting: effective communication; understanding of rights, process and questioning; rights and welfare needs. Appropriate adults have a critical role to play in protecting the rights and welfare of children and mentally vulnerable adults in custody.

As the national body, NAAN has sought to build closer links with both HMIC and HMIP. We provided input during the planning stages of the thematic inspection on the welfare of vulnerable people in custody and are a member of the expert reference group for the review of police custody expectations.

We welcome this further opportunity to comment on the revised draft of the Expectations for Police Custody.

This consultation response is based on the professional experience of appropriate adult schemes within our network. It also draws on our recently published report *There to Help (2015),* which was commissioned by the Home Secretary.

Reponses to consultation questions

1. Do you agree that the scope of custody inspections should be extended to include the first point of contact (i.e. arrest/pre-arrest)?

1. Yes. Actions taken by response officers outside custody are tightly integrated with how custody operates. Each have the potential to influence the other, for better or worse outcomes.
2. The delivery of custody is strongly influenced by the approach taken by response officers' application of the necessity of arrest criteria and use of alternative approaches to arrest. Custody sergeants are able to exercise a high level of influence over response officer approaches through rigorous application of the criteria for authorising detention.
3. Where custody is necessary, we would encourage information on vulnerability (including young age) flowing to custody at the point of arrest, rather than at the point of booking in. This would allow custody to better prepare to meet the needs of the individual on arrival. For example, it may be possible for AA arrangements to be made prior to arrival, reducing delays. However, it is accepted that arrest does not pre-suppose authorisation of detention by custody officers and this may present issues.

2. Do you think that the new criteria have sufficient focus on diverting children and vulnerable adults from police custody?

Diversion

1. The increased focus on diversion is welcome. NAAN wholeheartedly supports diversion from custody wherever it is possible, appropriate and in the best interests of the individual.
2. Reducing the number of people in custody (particularly vulnerable people) reduces time-pressures, risk and cost. It enables more time to be spent on each individual in custody, with benefits for police efficiency, individual welfare and the quality of the justice outcome.

Identification

3. A pre-requisite to diversion is the identification of vulnerability. *There to Help*, found that custody officers severely under-identify adults with mental vulnerabilities. Police data indicated that around 3% of adults passing through custody are being identified as requiring an appropriate adult. This compares to a (conservative) estimated prevalence rate of at least 11%-22% based on a range of academic studies. If this is true amongst custody officers, it is likely to apply to response officers – perhaps even more so.
4. We therefore strongly support the expectation that all staff having contact with people with vulnerabilities (i.e. all response officers) have adequate training and simple evidence-based screening tools to assist them in recognising vulnerabilities and being aware of the risks they generate. This should cover both adult mental vulnerabilities and those that are particular to, or more prevalent amongst, children.

5. Training should cover not just mental health but a broad range of mental vulnerabilities including intellectual disabilities and difficulties, specific learning difficulties (e.g. dyslexia), traumatic brain injury, and autistic spectrum disorders. It should cover where these various vulnerabilities are likely to co-exist.

6. The concept of 'risk', in the minds of custody staff, should explicitly include risk to the individual's psychological state and risk to the overall justice process (not focus purely on physical risks and risks to others but also).

7. Identification processes should recognise that vulnerabilities may, or may not, be known either to the individual or recorded on existing databases. They should include recognition of information provided by people who are with the suspect when arrested, in line with the PACE Code C requirement to treat a person as mentally vulnerable if told 'in good faith' that they are.

8. Academic evidence suggests that even where identification of mental disorder and mental vulnerability (as defined in PACE and the Mental Health Act) is increased by improved screening, call out rates for appropriate adults do not necessarily increase (notably McKinnon I., and Grubin, D. (2014) Evidence-Based Risk Assessment Screening in Police Custody: The HELP-PC Study in London, UK. Policing.8 (2): 174-182. Oxford: Oxford University Press). In assessing risks, all staff (including pre-custody) should be able to demonstrate awareness of the thresholds for services that mitigate vulnerabilities/risk (such as appropriate adults) and act on them.

9. *There to Help* found that there is a significant under provision of appropriate adult services for adults. The findings indicated that those police forces that did not have access to dedicated appropriate adult schemes identified five times fewer adults in custody as being mentally ill or otherwise mentally vulnerable. Therefore provision is a critical determining factor in official rates of identification of the need for an appropriate adult.

Data

10. *There to Help* found that police forces did not have robust practices with regard to the recording of vulnerability in custody. Data on vulnerability was likely under-recorded and was frequently recorded in a way which was not easily retrievable as management information.

11. We understand that data on voluntary interviews, including in relation to vulnerability and mitigating actions, is not routinely recorded by police forces.

12. Recording and reporting of vulnerability within alternatives to custody is a critical part of a diversion from custody strategy. Unless this data is recorded there is a risk that vulnerable suspects will simply be moved from custody to a place that has less oversight. This is particularly important in an environment in which a strategic shift is taking place towards the use of alternatives to custody.

13. There should be an effective data recording and reporting system, covering both custody and voluntary interviews, to ensure that (a) vulnerability data can be assessed to inform management and commissioning decisions and (b) historical data on an individual's vulnerability is accessible both in and out of custody.

Safeguards

14. Any form of diversion necessarily brings with it the question, "Diversion to what"? Diversion from custody must result in better outcomes for the individual and for justice (not simply cost reductions).

15. Alternatives to custody which retain a criminal justice element must have adequate safeguards. Such safeguards have developed around custody and are often mandatory. For example, the requirement for an appropriate adult.

16. Technological advances (such as body-worn video) will potentially increase 'on-street' PACE interviews. In the light of such developments, it is critical that safeguards are not degraded in the interests of expediency (something which may be desired both by the police and the interviewee in the short-term). There will continue to be a requirement for an appropriate adult for both children and mentally vulnerable adults – something that increases the likelihood that the right to free legal advice will be exercised. However, where response officers' training and access to services is poor, there is a significant risk that vulnerability will simply not be formally recognised.

17. Without appropriate safeguards there is the potential for unintended negative consequences. For example, a Penalty Notice for Disorder may be used on an individual whose vulnerability makes them highly compliant. Street bail may be used for a mentally vulnerable person who had severe difficulty with organisation, dates and times and therefore does not attend the police station when required.

18. Where PACE interviews take place in alternative locations, the suspect and the appropriate adult must be made fully aware of the serious nature of the situation (it should not appear to be an informal chat over the kitchen table with mum present). In any location, the person acting as appropriate adult must be fully aware that they are undertaking the role and fully informed of its responsibilities and powers.

19. It should be noted that appropriate adult schemes have developed around custody. For example, volunteers are recruited close to custody suites to improve response times and reduce travel costs. An expectation that a scheme should provide appropriate adults in a timely fashion, anywhere in their county or police force area, presents a significant challenge for many providers. Furthermore, health and safety policies are based on the custody environment and an expectation that appropriate adults would attend the home addresses of suspects would be a significant concern for scheme co-coordinators given their duty of care.

20. Where an interview is conducted in custody, appropriate adults have access to significant information via the custody record and custody officers. Police should provide an equivalent level of information to an appropriate adult supporting a vulnerable person during a voluntary interview, in order to enable them to be effective.

21. Any person agreeing to attend for a voluntary interview must be screened/assessed as in custody; and an appropriate adult must be secured if there is any doubt/suspicion that they may be mentally vulnerable. Individuals must be made aware in good time of the need for an appropriate adult and their right to legal advice. Appropriate adults must be fully informed on the role in order to be effective.

3. Do you think there is anything else we should examine in inspections of police custody to strengthen the focus on vulnerability and risk?

Definitions of vulnerability

1. The term 'vulnerable' is not defined in the expectations. However, it is presumed that the working definition is that established in the thematic inspection report The welfare of vulnerable people in police custody:

   > "[the] condition of a person who is in need of special care, support or protection because of age, disability or risk of abuse or neglect; vulnerability can be created by detention; in this inspection, we used the knowledge we have about outcomes of contact with the police for certain groups of people, to define vulnerability".

2. This definition is (rightly) broad and thus open to local, and even individual interpretation. In using this broad definition, it is important not to lose clarity on the existing specific definitions, and consequent requirements on police, within the PACE Codes. 'Vulnerable adult' is not synonymous with 'mentally vulnerable adult' as defined under Code C.

3. An appropriate adult must be secured whenever the police have any suspicion, or have been told in good faith, that a person has any mental disorder or disability (as defined by the Mental Health Act 1983 s.1(2)) or who, because of their mental state or capacity, may not understand the significance of what is said, of questions or of their replies (and is therefore mentally vulnerable). Even this narrower definition is subject to significant interpretation in practice, with some forms of mental vulnerability being considered more 'worthy' than others of the support of an appropriate adult.

4. We suggest that inspectors should expect to see that staff are aware of the types of vulnerability that require an appropriate adult to be secured under PACE and treat people accordingly

5. Detentions under s.136 MHA have rightly received a great deal of political and strategic attention. A police cell is not an appropriate place to accommodate a person who is in such a crisis. The welfare and rights of those vulnerable adults detained under PACE has perhaps received less, particularly those with learning disabilities, specific learning disabilities, traumatic brain injuries and autistic spectrum disorders. In the Leadership section, we suggest splitting out "The welfare of vulnerable adults is promoted" and "custody is only used as a place of safety for Section 136 Mental Health Act (1983) (MHA) assessments in the most exceptional circumstances". A separation would discourage conflation of the two issues

24/7 Appropriate adult services

6. The expectations currently state that appropriate adults should be available 24 hours a day. We agree that 24/7 availability of appropriate adult services, both for children and mentally vulnerable adults, is the correct aspiration. However, this must be effective provision and be delivered in the best interests of the individual.

7. Youth Offending Teams have a statutory duty under the Crime and Disorder Act 1998 to ensure provision of appropriate adults for children. Guidance from the Youth Justice Board states that, "This duty applies at any time of day or night. You should consider requests for attendance out-of-hours in line with the best interests of the individual child".

8. NAAN supports the above YJB position. Appropriate adult services for children should be able to demonstrate their ability to attend the police station 24/7 wherever it is in the best interests of a specific child. A policy which asserts that, for example, appropriate adults will not attend after 11pm because it is wrong to interview any child after this time, are not acceptable. Children vary significantly in their sleep/wake cycles and should be treated as individuals. Such inflexible policies can contribute to children and vulnerable adults being 'bedded down' and being detained overnight in a police cell, when police would have otherwise dealt with and released them.

9. 24/7 provision represents a significant challenge for many areas. Existing services vary significantly in the extent to which they offer a 24/7 service. For example, some YOTs will achieve 24 hour coverage via a mix of core hours plus use of the local authority emergency duty team (EDT). The effectiveness of this approach is dependent on the extent to which EDT has been trained and resourced to respond to appropriate adult calls. Some services will require significant changes in commissioning and funding in order to deliver on this expectation. Schemes need to ensure they can respond in an effective way, including being able to send appropriate adults who are fully alert at the required time.

10. We do have some concerns about 'indiscriminate' 24/7 services. The pressures of the custody suite can lead to police working to the very limits of the PACE clock, rather than expediting vulnerable people out of custody. It may well be inappropriate to interview a specific child at 2am (particularly if the case has not received sufficient attention earlier in the day). Appropriate adults need to be able to apply discretion in order to prevent this. Police should respect these decisions and not simply use alternative appropriate adults.

11. NAAN suggests that clear agreements are developed between schemes and forces regarding out of hours call outs, based on best interests / outcomes for the individual. Whether the scheme enables an interview at 2am should be dependent on the particular circumstances and individual, not the logistical difficulty or previous lack of action on the case.

12. In relation to adults, *There to Help* provided evidence of the severe lack of provision of appropriate adults in many areas of England and Wales. Around 50% of England & Wales appears to have no dedicated scheme. This is largely a result of the fact that, while YOTs have a statutory duty to ensure provision for children, there is no such duty on any entity to ensure provision for adults. Adult social services may provide an appropriate adult in some areas in some circumstances. However, the lack of statutory duty means many such historical arrangements are now ending.

13. Just as for children, it should absolutely be the case that appropriate adults are available for adults 24/7 with no delay. However it should be noted that it is a challenging expectation for police forces. Given the necessity for independence, it is not an issue they can solve in isolation from other partners - partners who are not within the remit of custody inspections.

14. We would not like to see any reinforcing of current poor practice whereby 'inappropriate adults' are secured in order to 'box-tick'. However, we propose an expectation that "The Force works actively with local partners to ensure provision of independent, effective, appropriate adults for vulnerable adults".

15. It should also be noted that, in relation to adults, PACE Code C 1.7(b) states that someone experienced in dealing with mentally disordered or mentally vulnerable people may be more suitable than a relative, guardian or other person responsible for their care or custody; however the person's wishes should be respected.

Appropriate adult notification and delays

16. The expectations currently include that "There are no delays in securing an Appropriate Adult". NAAN supports the removal of all possible delays in the request for, or the attendance of, appropriate adults.

17. There should be no delay in police contacting an appropriate adult (as required by PACE). Staff should have knowledge of: -

    a. the PACE-defined thresholds beyond which an appropriate adult is a requirement

    b. their duty to *secure* (not just contact) an appropriate adult under PACE

    c. the arrangements for contacting appropriate adults

18. One reason for delay may be custody officers' desire to consult with others on the need for an appropriate adult. The threshold in PACE Code C is intentionally designed as a layman's test requiring no diagnosis. PACE Code C requires that if the custody officer has any suspicion, doubt, or is told in good faith that the person is mentally vulnerable, an appropriate adult must be secured, unless there is evidence to dispel that suspicion. Research indicates that police often do not rely on their own initial, instinctive suspicions or identifications. They lack confidence to make the decision, often deferring to custody nurses, forensic physicians or Liaison & Diversion. These professionals will often be generalists and will often not have specialist qualifications or experience in areas such as psychiatry or learning disabilities. For example, while the Faculty of Forensic and Legal Medicine encourage specialist training for forensic physicians, it is not mandatory. We would assert that the decision to confer with others indicates custody staff have suspicion and an appropriate adult should be contacted immediately. While the role of healthcare professionals in informing decision-making by a custody sergeant is encouraged, they should not be asked to state that an appropriate adult is not required.

19. There may be some tension between the requirements to prioritise parents as appropriate adults and there being minimal delay. How long should police spend trying to contact parents before defaulting to the organised scheme? What should police do if parents are available but not for several hours or do not arrive when agreed?

Appropriate adult coverage of each detention episode

20. Once contacted, appropriate adults should attend as soon as possible.

21. It is not unusual for police, solicitors and appropriate adults to pre-arrange arrival at the time the police expect to be ready for interview. This is to avoid a situation where one is not ready and the others must wait. It is borne of genuine logistical concerns over appropriate adults and solicitors being expected to 'sit around waiting'. It is enabled by the PACE Codes which only require that rights and entitlements are repeated in the presence of an appropriate adult once they arrive.

22. However, in some instances, this results in children and vulnerable adults spending hours in custody before they receive any support from their appropriate adult. This is clearly not in the best interests of vulnerable detained people or the spirit of PACE. Appropriate adults should be contacted straight away and should attend as quickly as possible. Depending on the circumstances of the case and the needs of the individual, it may be that they leave and return at an arranged time for interview.

23. PACE Code C is similarly permissive in relation to the end of the detention process. In relation to charging decisions, paragraph 16.1 states, "If the detainee is a juvenile, mentally disordered or otherwise mentally vulnerable, any resulting action shall be taken in the presence of the appropriate adult [but only] if they are present at the time". If they are not at the police station then these provisions must be complied with again in their presence when they arrive unless the detainee has been released. There is no power under PACE to detain to await the arrival of the appropriate adult.

24. Where charging decisions involve referral to the Crown Prosecution Service, there can be a wait of four hours or more. Solicitors will not wait in the station during this time due to financial/time pressures. It is also common for appropriate adults provided by schemes to leave. Whether appropriate adults are paid staff or volunteers, there are obvious difficulties with asking them to remain in the station for long periods of time when there is little that they can do. As a result, many vulnerable people are charged and given bail (including with conditions) without either a legal advisor or appropriate adult.

25. Inspectors should expect to see police act as per Code C notes for guidance 16C: "Reasonable efforts should therefore be made to give the appropriate adult sufficient notice of the time the decision (charge etc.) is to be implemented so that they can be present. If the appropriate adult is not, or cannot be, present at that time, the detainee should be released on bail to return for the decision to be implemented when the adult is present, unless the custody officer determines that the absence of the appropriate adult makes the detainee unsuitable for bail for this purpose".

26. Inspectors should expect to see appropriate adult schemes provide support at the point of charge and bail, in response to sufficient notice from police. It should be recognised that this places significant additional demand on services and their ability to respond will often be determined by their commissioners. If appropriate for the needs of the individual, and if the appropriate adult has attended both for rights and entitlements and for interview, it may be acceptable to provide this support by telephone in order to avoid the need for bail pending charge.

27. The general resourcing of appropriate adult schemes presents challenges in relation to delivering both 24/7 services and 'whole episode' coverage. Funding varies significantly across the country, both for children's and adult services. In relation to children, although the number of children arrested reduced significantly between 2010 and 2014, the extension of appropriate adult services to 17 year olds in 2013 remains unfunded – despite 17 years olds making up a very significant percentage of all arrested children.

Appropriate adult presence during identification and other procedures:

- *There to Help* provided evidence that, while appropriate adults are almost always used for interviews, they are often not present for other procedures. This is despite those procedures being mandatory under the PACE Codes. For example, an appropriate adult must be present for identification procedures & consent (witness ID, samples fingerprints, footwear impressions, photos, evidential searches and examinations) under PACE Code D (2.3, 2.4, 2.14 and 2.15). In our research, only 64% of respondents (custody officers and appropriate adult schemes) said an appropriate adult was likely to be there during ID procedures. Notably, this issue has been recognised in recent custody inspections.
- Vulnerable people in custody appear unlikely to have support until shortly before interview, which leave a scarce amount of time to establish a detainee's needs or develop rapport

Strip searches:

- The expectations currently state, "No child is subjected to a strip search unless it is intelligence led, authorised by an officer of Chief Inspector rank or above and conducted in the presence of an appropriate adult."
- This is an important expectation. Some appropriate adult schemes have indicated concerns over strip searching becoming routine in some areas. In our research (*There to Help*), only 61% of respondents (custody officers and appropriate adult co-ordinators) said an appropriate adult was likely to be there during strip searches procedures. This excluded where there was an urgent risk of serious harm (see below).
- Under PACE Code C/H a strip search can proceed without an appropriate adult where (a) it is an urgent case where there is risk of serious harm to the detainee or others, or (b) in the case of a juvenile, they signify in the AA's presence that they do not wish them there for the search and the AA agrees, a record is made and the AA signs the record. Therefore, point (b) provides the child with a right not to have the appropriate adult (who may well be a stranger) witness their strip search. The appropriate adult would typically stand just outside the door in such circumstances.

PACE Reviews

- Police should give specific additional consideration to the benefits of carrying out a review of detention (of a person who is vulnerable) in person, rather than by telephone or video conferencing (as per Code C 15.3C(a) and (b)).
- When reviewing continued detention of a child or vulnerable adult police should make reasonable efforts to give the solicitor and appropriate adult sufficient notice of the time the

decision is expected so they can make themselves available, in person or by phone/electronic means, in time to enable them to make representations (as per Code C 15.3, 15CA)

- Particular attention should be given to decision to extend the detention of a child or vulnerable adult beyond 24 hours and a vulnerable person's appropriate adult and solicitor should be consulted before it is authorised.

Untrained appropriate adults

- Many appropriate adults are untrained parents and carers. The expectations currently state, "For those under 18, parents or guardians are used whenever they are willing, able and suitable for the role, are given guidance in writing on the role and are encouraged to be active in protecting the child's rights."
- The police should always provide suitable written information on the AA role to untrained appropriate adults. However, there is some academic evidence to suggest that the two-page Home Office guidance which is often given to parents is so limited that it makes them less effective appropriate adults than no information. We would like to see more substantial, accessible, effective information given to untrained AAs. We would like to see an expectation focusing on the outcome of police ensuring understand of the role the role, rather than the process of providing written information.

Independence of appropriate adults

- NAAN agrees that appropriate adults must be independent of the police. Appropriate adult provision is currently subject to a range of providers, funded from a range of sources (as well as significant provision by family members). This includes PCC organised schemes, police-run volunteer schemes and external providers operating with 100% police funding. This is closely linked with the lack of a statutory duty on any other agency to ensure provision for adults. We would welcome further discussion with HMIC over the detail of what constitutes independence.

4. Do you think that the new criteria have sufficient focus on implementation of the public sector equality duty responsibilities in the use of police custody – in particular the requirement to eliminate unlawful discrimination, harassment and victimisation?

Legal duties

- We welcome the explicit reference to the Equality Act 2010, which we believe provides a helpful context for improving support for vulnerable people in the justice system. Appropriate adults are one of a range of 'reasonable adjustments' to police detention and investigation for people who have a disability that is mental rather than physical.
- Section 3 lists the protected characteristics including "intellectual impaired". Statutory guidance to the Equalities Act 2010 provides a list of example impairments from which a disability might arise. This list has significant cross over with the conditions for which an appropriate adult would be required: -

  (a) developmental, such as autistic spectrum disorders (ASD), dyslexia and dyspraxia;

  (b) learning disabilities;

  (c) mental health conditions with symptoms such as anxiety, low mood, panic attacks, phobias, or unshared perceptions; eating disorders; bipolar affective disorders; obsessive compulsive

  (d) disorders; personality disorders; post-traumatic stress disorder, and some self-harming behaviour;

  (e) mental illnesses, such as depression and schizophrenia;

  (f) produced by injury to the body, including to the brain.
- It is important that inspection criteria, particularly those relating to awareness, identification, and access to services training, encompass the range of mental/cognitive vulnerabilities and, where appropriate, recognise their difference from mental health.
- The Equality Act's definition of disability is narrower than the PACE Act's threshold of 'mentally disordered or mentally vulnerable'. However, it provides an equalities-based rationale for appropriate adults which is a helpful complement to PACE's aim of ensuring the quality of evidence.
- Given the above, in Section 1 of the expectations, under Accountability in the section on meeting Equality Act obligations, there might justifiably be an explicit mention of physical or mental disabilities.
- Reference could be made to duties under the Autism Act 2009 and the cross-government Autism Strategy arising from it.

5. Are there any further comments you would like to make on the proposed new criteria for inspection of police custody?

Inspection of appropriate adult services

- Responsibility for inspection of appropriate adult services is not entirely clear and further development would support improved practice and policy. NAAN would encourage the joint work of inspectorates to include establishing both greater inclusion and increased clarity over the inspection regime for appropriate adult services.
- Interestingly, Full Joint Inspections of Youth Offending Work, led by HMI Probation, do not mention appropriate adult schemes, or do so only in passing. This is despite the fact that ensuring the provision of appropriate adults (for children only) is a statutory duty of YOTs under the Crime and Disorder Act s.38. It can be a matter of frustration for appropriate adult co-ordinators (particularly those) based within YOTs that their service does not appear to be an area of interest for inspectors, as it reinforces the idea that such services are peripheral to youth justice work. The absence of appropriate adult work from inspections leaves an accountability gap and undermines their critical importance to the wider work of YOTs, particularly their bail and remand strategies.
- NAAN welcomes the fact that recent custody inspections have repeatedly commented on appropriate adult services – both in critical and positive terms. Inclusion of appropriate adult schemes serves both to highlight best practice and areas where further development is required. It is a critical lever by which local culture and practice can be challenged, engendering reflection at a senior level and amongst partner agencies.
- It may be worthwhile considering how the inspection of appropriate adult services could go beyond the police perspective on the quality of the service. While the opinion of police officers is critical, it is likely to be based on those measures most relevant to police, such as response times. It may well not encompass the type of measures which, for example, a vulnerable suspect may focus on: relationship building; ability to explain procedures; quality of interventions in interview; support with charge and bail. In fact, it is possible to imagine a scenario in which an appropriate adult is largely ineffective but is considered 'good' by police – and indeed vice versa. This may not be immediately possible within the scope of custody inspections. However, it is important if inspections are to avoid providing either unfair criticism or false confidence around appropriate adult arrangements.

Human Rights Act

- In the same way as the duties arising from the Equality Act have been highlighted, those arising from the Human Rights Act 1998 are also relevant. Notably, this includes the Article 2 right to life and the Article 6 right to a fair trial; the latter of which has been held by courts to apply to police custody in terms of people understanding and effectively participating in the process.

Partnerships

- Additional partnerships could include: appropriate adults schemes; liaison and diversion; Safeguarding Adults Boards (which are now statutory and of which police are statutory members)

Local authority accommodation transfers

- Avoiding overnight detention of children is of critical importance. However, it should not be lost that the legal duties apply in the day time as well as at night.
- Additional expectations might be: that police request secure accommodation only where the legal threshold in PACE s.38(6)(b) is met; that a certificate if presented to the court whenever there is a failure to transfer a child.
- A child who has been refused bail and is waiting to appear in court should be accompanied into court via the normal entrance with a social worker (or representative of the LA) and not brought up to court from the cells. This is also relevant to the section on Courts. We have developed simple guidance for practitioners based on the legal framework which may be of interest.

Courts

- NAAN is very concerned about the expansion in some areas of the use of virtual courts for vulnerable adults and children.
- The AA role does not extend to court, and so they will not be present. The use of registered intermediaries for vulnerable victims and witnesses in court does not extend to the defendant (despite the fact that they are also a witness). Yet these distinctions are unlikely to make sense to the individual. Their solicitor will likely be at the court. Therefore they are surrounded by police and the custody environment with no independent person present.
- While we appreciate the benefits of swift justice and of avoiding interaction with the intimidating court room, there are serious questions about whether it provides a level playing field.
- There are specific concerns for mentally vulnerable suspects, particularly those who may be hearing voices. How can they distinguish between the various disembodied voices who may or may not be taking part in the court process?

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