Rationale

The purpose of this briefing is to give an outline of the roles of both an appropriate adult (AA) and an independent custody visitor (ICV) to ensure that both professionals have clarity regarding the others' role, and to give some guidance on visiting procedures whereby there is a child or vulnerable adult in detention who may have an AA present at the time that an ICV's visit is taking place.

The Roles – Independent Custody Visitor

The role of the ICV, (originally known as lay visitors), was established after the 1981 riots and the resultant Scarman report, citing that there should be some independent oversight of the treatment of those held in police detention.

ICVs are volunteers and are members of the local community who visit police custody suites to observe, comment and report on the conditions under which persons are detained. All visits are carried out in pairs, and are always unannounced at any time of the day or night. The fundamental role of an ICV is to check on the welfare of detainees held in police custody.

Conversations must focus on ascertaining whether or not detainees have been offered their rights and entitlements, checking health and wellbeing and confirming whether the conditions of detention are adequate.

Police and Crime Commissioners in England, Wales, the City of London, the Scottish Police Authority and the Northern Ireland Policing Board and have a statutory obligation to create, manage, train and report on their independent custody visiting schemes.

The Independent Custody Visiting Association (ICVA) is an umbrella body that leads, supports and represents independent custody visiting schemes. ICVA is a member of the UK National Preventive Mechanism (NPM). The NPM was established in 2009 to strengthen the protection of people in detention through independent monitoring and works to OPCAT. The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) is an international human rights treaty designed to strengthen the protection of people deprived of their liberty.

The Roles – Appropriate Adult

The AA is a statutory role established by PACE 1984 and its Codes of Practice, a framework that applies to police forces in England, Wales and Northern Ireland. The role's origins lie in a miscarriage of justice in which two children and a young adult with a learning disability were convicted of serious offences on the basis of false confessions.

The police are required to contact an AA as soon as is practicable whenever they detain in custody or interview voluntarily under caution: -

- a child or young person under the age of 18
- an adult who has a mental disorder or is otherwise mentally vulnerable

Whether by virtue of age or mental state or capacity, such people are vulnerable because they are more likely to provide unreliable, misleading or self-incriminating information, without wishing to. They may also have difficulty understanding: -

- and/or exercising their rights and entitlements
- the implications of the procedures and processes
- the significance of information, questions or their replies.

The AA is a safeguard against these vulnerabilities, protecting a person's rights and welfare and enabling their effective participation. The role spans the detention episode, from rights and entitlements through to charge and bail, though they are not required to be constantly present. PACE provides AAs with specific rights including: access to the full custody record; requiring a legal representative to attend the station even if the vulnerable person has declined legal advice; private consultations with the suspect. The activities of an AA include, but are not limited to:

- helping people to understand their rights and ensure rights are protected;
- supporting, advising and assisting them whenever they are given, or asked to provide, information or participates in any PACE procedure;
- assist with communication them and the police;
- observe whether the police are acting properly and fairly and are respecting the rights of the young person or vulnerable adult and to inform the police if they are not.

A wide variety of people undertake the AA role including: parents and family members; social and youth offending team workers; paid sessional staff; and volunteers.

The AA does not have legal privilege but is under a duty of confidentiality.
Unlike legal representation, the presence of an AA is *mandatory* for many police procedures. Failure to ensure an AA is present can result in evidence being ruled inadmissible in court.

Where both an AA and an ICV are in attendance

If an AA is in attendance to support a young person or vulnerable adult, the detainee's wishes should be sought and respected as to whether the AA should be present during the visit.

The private consultation between a child or vulnerable adult and their AA is an important and potentially delicate conversation. It would not be usual for an ICV to interrupt it in order to carry out a custody visit.

AA consultations can be fairly brief, and an ICV may wish to complete the rest of the visits and then return to see if the young person or vulnerable adult is free and consents to be seen at the end of the custody visit.

If the consultation with the AA transpires to be lengthy, the ICV should consider asking a custody officer to enquire with the vulnerable person as to whether they wish to see the ICV. Suitable arrangements can then be made.

Can I be an Appropriate Adult and an ICV?

PACE Code C (1F) states that independent custody visitor present at the police station in that capacity may not be the appropriate adult.

The ICVA Code of Practice states: *ICVs may also act as appropriate adults. However, individuals must not switch between those roles during the course of a visit to the same police station and must declare if they have previously carried out either role with the same detainee. An individual cannot perform both roles (i.e. acting as an appropriate adult and an ICV) simultaneously for the same detainee.*

Given the independent monitoring role of ICVs, there is potential for a conflict of interest if also acting on behalf of an AA scheme in the same area. Whether a person who regularly acts as an AA can join an ICV scheme is a matter for the local Police and Crime Commissioner. Whether an ICV can join an organised AA scheme is a matter for the local AA scheme. An individual should not join both ICV and AA schemes without permission from both scheme coordinators.

Report Ends