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National Appropriate Adult Network

Monday, 4th February 2019

To: Chief Inspector Johnston

Cc: Chief Constable Nick Ephgrave

Assistant Chief Constable Nev Kemp

Home Office Police Powers Unit

Dear Chief Inspector Johnston

RE: Developing an efficient and effective risk assessment

We write to you following discussions at the last meeting of the risk assessment working group at the NPCC Custody Forum in Sheffield, November 2018. We supports the aims of the group and hope the following is of interest and assistance.

In our considered view, current police risk assessments are effective identifying many of the risks related to safer detention (e.g. self-harm and suicide). However, they are less effective at identifying risks related to the criminal justice process, notably the risk that evidence is unreliable and/or inadmissible due to breaches of PACE.

PACE Code C (2018) introduced a radically different definition of those suspects for whom additional steps (such as the involvement of an appropriate adult) must be taken in order to safeguard the reliability of evidence. The focus is now not whether the suspects are vulnerable due to a medical condition but whether they are at risk of being unable to participate effectively in processes and procedures related to their detention and the investigation. These risks are a complex and dynamic mix of personal (e.g. age, psychiatric, psychological) and situational (e.g. the nature of the investigation or detention period).

Liaison and diversion services (L&D) are increasingly widespread and are set to operate in all police custody suites by 2020. However, before a suspect can be assessed by L&D, they must first be identified as *requiring* an assessment. At present, this screening responsibility falls on custody staff and usually takes place at a custody desk. In the case of voluntary interviews, L&D assessments typically occur *after* the interview – and therefore cannot protect the admissibility of evidence. In neither case is an effective screening process in place to ensure that suspects with communication difficulties will reach L&D staff.

This leaves police forces with a significant challenge in operationalising the revised Code. Front line police officers do not currently have the tools or training to deliver an effective initial screen that would enable them to achieve best evidence. They are expected to identify complex, subtle and sometimes intentionally concealed risks in the most time-pressured and difficult of circumstances.

the national appropriate adult network limited • 19 North St • Ashford • Kent • TN24 8LF
tel: 07739 904858 • email: admin @appropriateadult.org.uk • web: www.appropriateadult.org.uk
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As a result, safeguards may not be applied where they are required - leading to miscarriages of justice and failed prosecutions. Alternatively, safeguards may be applied where they are not necessary - leading to additional delays and costs.

A more effective screening and risk assessment process would:

- assist the police in achieving best evidence;
- ensure that suspects participate effectively, including understanding and executing their rights (pursuant to Article 6 of the Human Rights Act 1998);
- ensure that resources are targeted where required; and
- reduce detentions times by giving early notice where interview evidence is unlikely to be admissible if an interview is conducted within custody time limits.

The academic foundations for a more effective risk assessment have already been laid. For example:

- Professor Gisli Gudjonsson (King's College London) has produced an internationally-recognised body of work on risks in interviews arising from suggestibility and compliance.
- Dr Roxanna Dehaghani's (Cardiff University) research collaboration with two police forces has provided a rich understanding of how police officers currently assess these criminal justice risks, and the risks that these approaches generate for investigations.
- Dr Iain McKinnon's (Newcastle University) HELP-PC tool developed in partnership with the Metropolitan Police (and adopted by Northumbria Police) demonstrated how simple structured questions could empower police officers to identify psychiatric and medical conditions accurately.
- Lesley Laver (Bournemouth University) is conducting research to map risk factors for misunderstanding, suggestibility and compliance in interviews into accessible screening questions. A number of 'personal' and 'situational' risk factors relevant to suspect interviews have been identified by research (Gudjonsson), all of which can interact in complex and dynamic ways to affect the reliability of evidence. The time available to screen for these many different risks in custody is limited, however. Mapping these many different factors into a brief, efficient, yet effective risk assessment tool that has practical utility for custody staff is necessary if useful screening is to take place in the pressured custody environment.
- Vicky Kemp (University of Nottingham) is developing an 'app' for the police to use when informing suspects of their legal rights – both in custody and voluntary interviews. It has the potential to identify risks efficiently via a self-assessment screening. This would assist in identifying appropriate cases for L&D referral and those requiring additional safeguards under PACE. The app could also assist the police in voluntary interviews by adopting a national standardised approach through guidance on the app being available to the police on a confidential basis. It could also enable data to be automatically transferred to local information systems.
- There is a significant body of knowledge in relation to achieving best evidence with witnesses and victims that has not been drawn upon in relation to suspects. Research demonstrates the potential for officers to draw upon skills learned in interview training for vulnerable witnesses and victims to assist them when interviewing young suspects. However, there are specific and critical factors that should be considered when planning to interview an individual as a suspect.

We propose that the solution lies in:

- the development of a national risk assessment; via
- a collaboration between police and a multi-disciplinary group of academics spanning the known areas of risk (e.g. psychology, psychiatry and law); which
- draws these inter-disciplinary threads together to create a 'map' of the risk factors that lead to negative outcomes; and
- uses this knowledge to develop a comprehensive, evidence-based risk assessment that is simple and efficient for forces to adopt and officers to deliver, and makes a practical and positive impact; while
- considering how technology can best be used to reduce pressure on custody staff, including by recognising suspects as a resource and the potential of self-assessment; and
- working in partnership to develop the tool iteratively, building a system that learns over time as police and academics share information about how factors relate to negative outcomes.

We would welcome an opportunity to discuss these ideas with you further, at your convenience.

Yours sincerely,

Chris Bath FRSA, Chief Executive, National Appropriate Adult Network

Professor Gisli Gudjonsson CBE PhD, Emeritus Professor of Forensic Psychology, Institute of Psychiatry, Psychology & Neuroscience

Dr Vicky Kemp, Co-Director, Criminal Justice Research Centre, University of Nottingham

Dr Iain McKinnon BA MBBS MRCPsych PhD, Hon. Senior Clinical Lecturer / Consultant Psychiatrist, Institute of Neuroscience, Newcastle University

Dr Roxanna Dehaghani, Lecturer, School of Law and Politics, Cardiff University

Lesley Laver MSc LLB (Hons) GDip MBPsS, Department of Psychology, Faculty of Science and Technology, Bournemouth University