Response to the Consultation on the revisions to PACE Code C

From: The National Appropriate Adult Network (NAAN)

NAAN welcomes the opportunity to respond to this consultation.

We have chosen to comment only on Code C. In formulating our response we have used the experience and expertise of our members in delivering appropriate adult services.

C Notes for Guidance 1G
The definition of 'mental disorder' in the Mental Health Act 1983 was amended by the Mental Health Act 2007 and the amended definition should be reflected in the wording used in the Codes

C.3.5 NAAN does not agree that the custody officer should be able to delegate the determination as to whether the detainee requires an appropriate adult to other custody staff. Evidence suggests that mental vulnerability is significantly under-identified in many police forces[1]. Delegation of this responsibility to more junior staff may well exacerbate this situation unless the role is delegated to somebody who has received equivalent or superior training in recognising when a detainee might be 'mentally disordered or otherwise mentally vulnerable'.

C 3.16 NAAN believes that the sentence that refers to appropriate adults should be made clearer and suggests the following: *An appropriate adult has no role in a Section 136 Mental Health Act assessment and therefore is not required to be present for any part of this process.*

In addition, the role and the term 'approved social worker' were replaced by 'approved mental health professional' in the Mental Health Act 2007. The new terminology should be used in the Codes.

C 6.5A The right for an appropriate adult to ask for legal advice on behalf of a mentally vulnerable adult detainee (C 3.19) should be made explicit. We suggest the following amendment to this section:

In the case of a juvenile or adult detainee who is mentally disordered or otherwise mentally vulnerable, an appropriate adult should consider whether legal advice from a solicitor is required. If the juvenile or mentally vulnerable

[1] See http://www.appropriateadult.org.uk/uploadedFiles/1294311851790-3470.pdf

adult indicates that they do not want legal advice, the appropriate adult has the right to ask for a solicitor to attend if this would be in the best interests of the person. However, the detained person cannot be forced to see the solicitor if they are adamant that they do not wish to do so.

C 13.9 and 13.10
Some speech and communication difficulties may be a consequence of a learning disability. It may be in such cases that the appropriate adult would be a suitable interpreter particularly if they are a family member or professional who knows the detainee well and understands their communication needs and difficulties. If that is the case, consideration should be given to extending legal privilege in such cases to appropriate adults who attend legal interviews specifically to act as an interpreter and aid communication with the solicitor or detainee has requested their presence.

C15.3 We suggest the following amendment:

(c) the appropriate adult if available at the time. If the appropriate adult is no longer available in the police station, reasonable attempts should be made to seek their views via the telephone.

C 16 C16.1 makes it clear that the appropriate adult should be present for charging or other disposal. This is reinforced by 16.3, 16.4A and 16.6. However Note for Guidance 16C says that action in this section cannot be delayed to await the arrival of the appropriate adult if they are not already in the police station. This contradictory message causes confusion and inconsistent practice and means that appropriate adults are often not present for charge or other disposal. They cannot therefore try to make sure that the juvenile or vulnerable adult understands the charge or any requirements (such as bail conditions) set at that time.

In a number of areas, we are informed by members that the police appear to make no attempt to get an appropriate adult for charge.

Juveniles and vulnerable adults need the support and guidance of an appropriate adult at the time of charging or other disposal. Therefore Note 16C should be amended to allow a reasonable period of time to get an appropriate adult to the station before proceeding with the charge or other disposal.

The related **Annex E11** should therefore NOT be amended as suggested as this would further reduce the likelihood of the appropriate adult being present at this time.

Annex A2B and **Annex K3** NAAN welcomes the clarification about 'appropriate consent' here.

NAAN is the national body supporting and representing organisations providing appropriate adult services in England and Wales. NAAN is a registered charity and receives funding from the Home Office. It has around 90 members.

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January 2012