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Charities calls for end to remote legal assistance for children and vulnerable people in police stations

Fair Trials, Transform Justice and the National Appropriate Adult Network are calling for an end to remote legal assistance in police custody, which should take place with immediate effect for children and mentally vulnerable adults. In [*Not remotely fair? Access to a lawyer in the police station during the Covid-19 pandemic*](#), the criminal justice charities have raised concerns that remote legal assistance is threatening people's fundamental rights and putting police investigations at risk.

In normal times, people who are suspected of crimes have a right to have a lawyer physically with them during any police interview to protect their rights. However, as the pandemic struck in March 2020, legal representatives raised concerns about the Covid-19 safety of police custody, leading to anxieties that essential interviews with legal representatives present at a police station would not proceed. In early April 2020, organisations representing solicitors, prosecutors and the police agreed a Joint Interim Interview Protocol (JIIP). This was intended to allow necessary police interviews to continue, while minimising health risks to solicitors.

Today's report is based on the findings of a survey of appropriate adults, who continued to attend police custody to support children and vulnerable adults. It shows that remote interviews are having a negative impact on children and vulnerable adults who have been detained in custody. The charities are calling for PACE rules, which require legal advice to be in person, to be applied with immediate effect for children and vulnerable adults and as soon as possible for all suspects.

Key issues highlighted in the survey included:

- Legal representation at interview was provided remotely to children and vulnerable adults in half (51%) of the 4,700 police station interviews attended by respondents between 1 September 2020 and 17 November 2020.
- Remote advice should only be given with consent but this was often not sought from suspects and their appropriate adult; both felt pressured to consent and refusal of consent was ignored or defied.
- Remote legal assistance at interview negatively impacted people's ability to understand what was happening and the legal advice they were given.
- Some solicitors were more passive and less likely to intervene during interview when assisting remotely, and were less likely to hold a post-interview debrief with their client.
- Some solicitors refused to attend in person even though their child or mentally vulnerable client was accused of a serious crime such as attempted murder or rape.

[Read the report here.](#)

Chief Executive of Fair Trials, Jago Russell said:

"The implications of the pandemic on our over-stretched and ill-resourced criminal justice system will reverberate for years to come. One question the courts are going to have to grapple with is whether they can rely on incriminating statements that were given in police interviews over the past year where solicitors gave advice over the phone or by video call. "

"In the past, miscarriages of justice have been caused by the failure to protect suspects in the police station which is why people have the right to in person legal advice free of charge. We need lawyers back in police stations as soon as possible to ensure that this important right is protected. "

Penelope Gibbs, Director of Transform Justice said:

"Those detained in police custody have been imprisoned by the state. It is a deeply stressful experience which renders all detainees vulnerable. We need to ensure that all detainees, especially children and vulnerable adults, are able to access legal representation and to have fair treatment in custody. Our survey suggests that suspects are sometimes being short-changed due to Covid safety measures. But justice should not and does not need to be compromised."

Chris Bath, CEO of the National Appropriate Adult Network said:

"The Covid-19 response to police interviews was well-intentioned but in practice has not delivered a fair process for children or for people with a learning disability, speech and language need, autism, mental illness or brain injury. While those in police custody have benefited from the continued in-person support of appropriate adults throughout the pandemic, this is no substitute for the invaluable physical presence of a lawyer.

"Children and vulnerable adults make up only 9% and 5% of arrests respectively. Given this new evidence, it is not logical or proportionate to ignore the existing rules that their legal advice should always be in person. Miscarriages of justice and failed prosecutions serve neither suspect nor victim".

Katie Kempen, Chief Executive of the Independent Custody Visiting Association supported the publication of the report, saying:

"Independent custody visitors repeatedly raised concerns that detainees were not consenting to remote legal advice in the spring 2020. This report further outlines these deeply worrying

practices, which leave vulnerable detainees without in-person legal advice, including those suspected of serious offences. In a society that values fairness and the rule of law, this situation cannot continue. To protect access to justice, solicitors should return to providing in-person advice safely in COVID secure custody suites.”

What appropriate adults said

The following quotes were given by appropriate adults as part of the survey:

- *“Detained person with ADHD was unable to tolerate phone/voice and terminated interview and refused further phone consult”*
- *“I have had [suspects] ask legal type questions after phone consult which I wasn't able to answer...[suspects] were offered another phone*
- *“I have personally experienced solicitors at home during interviews having their kids run around in the background or having brief chats with family members when they are being delivered coffee. How is this fair on the detainee?”*
- *“The suspect is less likely to follow solicitor advice if they are not present.”*
- *“I have noticed that people struggle more if the remote advice is audio only...feedback from volunteers is that sometimes audio only can increase a [suspect's] paranoia.”*
- *“I have dealt with 5 serious cases involving under 16s (murder/rape) and solicitors have refused to attend the station.”*

Walnut Omnibus Poll

In a separate poll of 2009 adults by Walnut Omnibus, 82% of people said they would want to get in person advice from a lawyer if they were detained by the police.

The question asked was:

*Q9. Imagine a situation where you have been arrested, detained in police custody and interviewed by the police. You have the option of getting advice from your lawyer while you are in police custody. Of the following ways to speak to your lawyer, which one would you prefer?**

Notes to Editors

Survey of appropriate adults: The report is based on an online survey of appropriate adults (AAs) that was carried out by Transform Justice and NAAN. Responses were received from 315 appropriate adults, operating in all 43 territorial police force areas.

Legal assistance in England and Wales: Anyone who is detained or interviewed by police is entitled to free legal advice and assistance. Solicitors play a crucial role in protecting a suspect's

fair trial rights – including the right to disclosure of evidence, the right to silence and the right to legal aid. Many people detained in a police station are not aware of their rights and do not understand what they mean – the language is technical and suspects are under significant stress. The solicitor therefore serves as a crucial “gateway” to other procedural safeguards and rights; without them, it’s difficult for a suspect to participate effectively in the criminal justice process.

Role of appropriate adults: Appropriate adults safeguard the interests, rights, entitlements and welfare of children and vulnerable adults who are suspected of a criminal offence. The police must involve an appropriate adult if the suspect is under 18 or meets the criteria for a ‘vulnerable person’ described in PACE Code C paragraphs 1.4 and 1.13(d). In some cases the AA is a parent, family member or other person known to the person suspected of the offence. In other cases, the AA is a trained person from a locally organised scheme. This person is often a volunteer, but may be a sessional worker or employed professional such as a youth offending team officer or social worker.

**Source: Walnut Omnibus, a nationally representative omnibus survey of 2009 adults across GB between 17th – 18th February 2021.*

The figures have been weighted and are representative of all GB adults (aged 18+).