**FACT SHEET 4**

**Appropriate Adults**

This fact sheet explains the role of an Appropriate Adult.

If the police arrest someone whom they think may be mentally vulnerable, then they have a duty to call for an Appropriate Adult. This factsheet looks at who may be considered mentally vulnerable, who an Appropriate Adult (AA) can be and what their role involves.

If someone is arrested by the police they have three basic rights – to consult with a solicitor free of charge, to have someone informed of their arrest and to consult the police Codes of Practice. In the case of a mentally vulnerable person, they also have an additional right to have an Appropriate Adult present. The Appropriate Adult could be a carer, relative, friend, health or social care professional or a trained volunteer from an independent organisation. The custody sergeant at the police station is responsible for all the detainees at the station. It is their responsibility to call for an Appropriate Adult if they think the person detained may be mentally vulnerable. The Appropriate Adult is an important role. If a mentally vulnerable person is detained by the police they make sure they are treated fairly, that the rights of the individual are respected and that they understand what is happening to them whilst at the police station. The Appropriate Adult does not provide legal advice. The Appropriate Adult can remind you of your right to have a solicitor, or actually ask for a solicitor to be present if they feel it would be in the best interests of the person detained, though they cannot insist that the detainee speaks with them.

**Who is mentally vulnerable?**

A person is considered vulnerable if:

* they appear to be under the age of 17
* they have learning disabilities
* they have trouble communicating and understanding things

If the police know or think someone might be vulnerable they have a duty to ensure a responsible person called an Appropriate Adult (AA) is present.

The role of the AA is included in the Police and Criminal Evidence Act 1984 (PACE 1984). These are the Codes of Practice that the police should follow on how to treat people in police custody.

**Who decides if someone is a mentally vulnerable?**

When someone is arrested, they are taken to a police station. There they will be met by the custody sergeant (sometimes called the custody officer). If the custody sergeant knows or suspects that the individual detained may be mentally vulnerable it is their responsibility to arrange an AA.

**Who can be an appropriate adult?**

An AA is different from a solicitor. They can be a family member, friend or more often a volunteer or social/health care professional. Organised groups of trained volunteers act as an appropriate adult more and more. The local authority has to provide AAs for children and young people but **not** for any other groups of people. This means that Appropriate Adult services for mentally vulnerable people in police custody (are not always consistent) *vary*.

Whoever is called by the police to act as an AA should be able to look after the interests of the person detained. For example the AA could help the individual to understand what is happening to them and act on their behalf. They must also have a genuine interest in the person’s welfare. Ideally they should already know the person (though this is not essential) but more importantly should be able to gain the trust of the individual. The AA cannot be someone who is involved in the matter which led to the arrest of the individual for example a victim or a witness.

**What does an appropriate adult do?**

The AA is there to ensure that the individual understands what is happening to them and why. The key roles of the AA are:

* To support advise and assist the individual while they are being questioned
* To see whether the police are acting properly, fairly and with respect to the rights of the individual
* To help with communication between the individual and the police
* To ensure that the individual understands their rights and how an AA can help to protect their rights

The AA cannot give the individual any legal advice or encourage them to co-operate with the police if the individual does not want to.

**What happens when an appropriate adult is called to the police station?**

When the AA arrives at the police station the custody sergeant must tell the individual their rights and caution them in front of the AA. The caution is:

“ *you do not have to say anything, but it may harm your defence if you do not mention when questioned something which you later rely on in court. Anything you do say may be given in evidence”*

It is important that the individual understands the caution and that the police check this out. If there is any doubt the police may ask the AA to help explain it to the individual ie the statement is in three parts, Part one and three are straightforward. You do not have to answer questions and if you do the answers may be used as evidence, the middle part is more difficult. If you say something in court to explain why you are innocent or were not involved but you did not say this during the interview, the court might find this strange and question your explanation.

The AA might for example ask the individual to explain their rights and the caution in their own words to see if they have understood.

The custody sergeant must also give the individual a written notice of their three basic rights:

* The right to consult with a solicitor, free of charge
* The right to have someone informed of their arrest
* The right to consult the Codes of Practice (the book about police powers and procedures)

The police must also give the individual information about what else they are entitled to, whilst they are at the police station. These include a reasonable standard of physical comfort, enough food and drink, access to a toilet and washing facilities, clothing, medical attention and exercise where necessary.

The individual can meet with their AA at any time.

**The custody record**

The AA is allowed to see a copy of the individual’s custody record. This record includes the individual’s personal details, time of arrest and arrival at the police station and the time of detention. The AA can check that all this information is correct. They can also check if anyone else has been told that the individual has been arrested, if there have been any reviews or if a forensic physician\* has been called.

**Reviews**

When an individual has been kept in a police station the Review Officer should review their detention no more than 6 hours after they first arrived. If they are detained longer than that they will review it at least every nine hours after the first review. They will need to make sure that there are still reasons to keep the individual in the police station. They will undertake these reviews with the custody sergeant.

The individual, the AA or solicitor can speak to the review officer about whether or not the individual still needs to be kept at the station or about anything else linked to the individual’s detention. The AA is entitled to be present during the review.

**Speaking up for the Individual**

The AA should make sure that the individual is not confused or intimidated by the situation. The AA should not be afraid to speak up if they feel that the individual seems to be intimidated. They will also need to be present if the police need to search the individual, or if they need to take finger prints or samples. If the individual is asked to sign any documentation then the individual has the right to have the AA with them.

**During the interview**

One of the main reasons for detaining an individual at a police station is to ask questions. The police should only ask the individual questions when the AA is there. Before the police question the individual, they should be cautioned again.

The AA should make sure the individual understands the questions being asked of them and that the police do not ask questions in a confusing, repetitive or intimidating way. The AA should also ensure that the police understand the individuals reply. An AA can intervene at any time. If the AA has any doubts at all they should raise them and try to clear them up there and then.

If the individual appears confused, distressed, very upset or very tired then the AA can and should stop the interview. If the individual needs a break they can ask for this. If they are unhappy about the way the interview is being conducted then they are entitled to ask the police to stop the interview. The AA and the individual can ask for legal advice from a solicitor at any time.

**At the end of the interview**

At the end of the interview the police officer will ask the AA if there is anything they wish to say or add. The AA could make any observations they have on the way the interview was conducted.

They may be asked to witness the signature on the sealed interview tape and also witness the form that the police give to the individual which explains what will happen to the tapes.

The custody sergeant will speak with the officer involved in the individual’s case before deciding whether to:

* Release the individual from custody without charge or
* Release the individual from custody to come back to the police station for another interview on another day or
* Caution the individual (reprimand or warning if the person is under 18) or
* Charge the individual and if so whether to keep the individual in custody to appear before the next available court or release the individual on bail to appear in court on a future date

The AA will have to be present when the individual is told what the custody sergeant has decided. If the individual is charged with an offence then the AA should be present when the charge is read out. If the individual is charged or cautioned the police may want to take photographs, finger prints and perhaps a DNA swab. The individual has to consent to all of these procedures and the AA has to be present for them to take place. The rules for sample taking are complex and the individual and or AA may wish to take legal advice before agreeing to any of these requests by the police.

The police may ask the individual to take part in an identification parade or another identification procedure such as identification by video. The police will ask for the AA to be present for this.

**Confidentiality and the appropriate adult?**

When an individual speaks to a solicitor, they are not allowed to share what the individual tells them with other people because of ‘legal privilege’. This does not apply to the AA. **It is very important that the individual understands that their private conversations with their AA are not confidential**. This means that the police could question the AA as a witness and ask them what was discussed. They could also be questioned in court. An individual may want to speak to a solicitor privately rather than an AA. If the AA considers that the individual is giving different information to them than to the police, they may ask to withdraw from the role, which may be seen as inviting such questioning if felt appropriate.

**When should the individual get legal advice?**

An individual can speak to an AA privately about whether they would like legal advice from a solicitor. If the individual decides they do not want legal advice the AA may believe it would be in the best interests of the individual to speak to one. They can override the individual’s decision and call a solicitor to the police station. However, the individual cannot be forced to see a solicitor if they do not want to. If the individual or the AA decide to call a solicitor they should tell the custody sergeant at once. They will then contact the Defence Solicitor Call Centre who will identify which adviser is on duty for that particular Police Station.

Although the duty solicitor may be very experienced in criminal matters, they may not be experts on mental health issues. Therefore it is very important that the individual mentions any relevant mental health issues to the solicitor as soon as possible. The AA can provide relevant support with this.

**What happens if the individual is unhappy about something at the police station?**

If the individual is unhappy about something while they are at the police station they may raise this with the AA. The AA can make sure that this is captured within the custody report. A formal complaint to the police can also be made.

**How long can someone be kept at the police station?**

The custody sergeant should ensure that police enquiries are carried out as quickly as possible and that individuals are released as soon as possible. An individual can be detained for up to 24 hours without charge, with the review officer reviewing the detention in line with the requirements. An individual can only be kept for longer than 24 hours in the most serious cases and the police need a superintendent or a court to agree. If the police suggests that they wish to detain an individual for longer than 24 hours then the individual should take legal advice from a solicitor and an AA may support this.

**People encountered at the Police Station**

*Custody Sergeant/Officer –* they are responsible for the individual’s welfare whilst in custody. The custody sergeant does not investigate the suspected offence. They keep a full record of the individual’s time whilst detained at the police station. They speak to the officer involved in the case and then decide what happens to the individual at the end of the investigation. There are a few things that could happen to the individual after they have been arrested by the police, for example the police could release the individual with no further action to be taken or the individual may be charged with an offence and need to appear in court.

*Officer in the case –* the police officer who is responsible for investigating the suspected crime. They would usually interview the individual. If the individual is mentally vulnerable, they should not speak to them unless an AA is present.

*Review officer –* usually at inspector level or above who is not directly involved in investigating the suspected offence. When the individual is kept at the police station, the review officer should regularly review this. The individual or the AA or a solicitor can speak to the review officer about whether or not they still need to be detained or about anything else linked to the person’s detention.

*Defence lawyer –* a solicitor or representative who is independent of the police and whose job it is to protect the legal rights of the individual. They are required to act in the best interests of the individual. An individual can meet privately with their defence lawyer without an AA being present.

\*forensic physician – an Appropriate Health Care Professional (AHCP) – a medical practitioner who can be called to see an individual if they need medical attention whilst detained at the police station. Any medical professional can carry out this role, such as an outside nurse, doctor or paramedic.

**The National Appropriate Adult Network** – is the national membership body that supports and represents organisations to deliver appropriate adult services in England and Wales. They can provide more information on the role of an appropriate adult.

[www.appropriateadult.org.uk](http://www.appropriateadult.org.uk)

Telephone 07739 904 858

Address:

3b Nettlefold Place

London

SE27 0JW

December, 2013