



Home Office



Appropriate Adult PCC-Local Authority Partnership Agreement England

Improving provision for vulnerable adults

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INTRODUCTION

In 1972, a man called Maxwell Confait was murdered. Two children and a man with an intellectual disability were arrested and, based on their confessions, convicted. Several years later, forensic evidence showed that they were innocent. Their confessions had been false and were the combined result of their vulnerability and their treatment by police during detention and questioning.

This miscarriage of justice, together with wider public concerns about police powers, eventually led to a Royal Commission on Criminal Procedure to consider the investigation of offences, the powers and duties of the police, as well as the rights of suspects. The findings of the Royal Commission would lead to introduction of the Police and Criminal Evidence Act 1984 (PACE) and its Codes of Practice, which set out the rules and safeguards for policing in England and Wales, including the role of the Appropriate Adult.

Appropriate Adults help ensure children and vulnerable adults are treated fairly when the police suspect them of committing an offence. They reduce the risk of miscarriages of justice as a result of evidence being obtained from vulnerable adults and children in ways which, by virtue of their vulnerability, might lead to unsafe convictions.

In 2018, the need to ensure the rights and welfare of vulnerable people and that they have access to justice is as important as it was in 1972. And whilst there are a range of models for commissioning and provision of Appropriate Adults in place across England, led principally by Local Authorities, it is clear that there are challenges.

This Partnership Agreement is intended to address these challenges. It is a voluntary framework within which Police and Crime Commissioners and Local Authorities can work effectively in partnership to ensure that vulnerable adults have access to justice and that their rights and welfare are safeguarded.



ABOUT THE AGREEMENT

The Police and Criminal Evidence Act 1984 (PACE) Codes of Practice require vulnerable adults detained in police custody, or interviewed voluntarily, to be supported by an Appropriate Adult. This Partnership Agreement is intended to support partnerships between Local Authorities¹ and Police and Crime Commissioners (PCCs)² to meet this important requirement – ensuring that such individuals are treated fairly, with respect for their rights, and enabling their participation effectively and equally in the justice system. The Partnership Agreement does this by setting out a local partnership approach to ensuring provision is effective, efficient, and timely. In particular, it sets out clearly defined roles and responsibilities on the part of PCCs and Local Authorities.

For **Police and Crime Commissioners**, it is about:

- taking responsibility for oversight of Appropriate Adult provision within the force, working closely with custody management to understand force needs and operational requirements across the force area;
- establishing a demand profile to inform Local Authority or joint commissioning, and regularly feeding through to Local Authorities information on demand and supply, listing any shortfalls or issues with the quality of Appropriate Adult provision;
- nominating a Single Point of Contact (SPOC) within the office of the PCC to establish a close working relationship with Local Authority adult social services, developing a shared understanding of respective roles and responsibilities;
- ensuring that police policy and practice complies with PACE; and
- regularly monitoring Appropriate Adult provision through information from custody staff from across the force area.

For **Local Authorities**, it is about:

- choosing approaches that deliver efficient and effective Appropriate Adult provision, reducing instances of non-availability and delay and ensuring high quality provision that meets the needs of vulnerable adults;
- establishing close working relationships with PCCs through nominating a SPOC whose role it will be to develop a shared understanding of respective roles and responsibilities;
- ensuring regular and effective communication between the Local Authority and PCC, factoring data and analysis of force needs provided by the PCC into Appropriate Adult provision/commissioning within the Local Authority area;
- regularly monitoring provision/commissioning arrangements; and
- working in partnership with statutory and community groups supporting vulnerable people in the criminal justice system.

1 'Local Authorities' in this agreement means the 152 principal Local Authorities with adult social care responsibilities. This does not include district councils. In most cases the agreement will be between the Directors of Adult Social Services and the PCC.

2 Including the London Mayor's Office for Policing and Crime and Mayor of Greater Manchester.



ROLE OF THE POLICE AND CRIME COMMISSIONER

Oversight at force level

The Office of the Police and Crime Commissioner is well positioned to put into place the necessary measures at force level to enable partnership agreements with the Local Authorities responsible for adult social care that fall within the force area. This is for three main reasons:

1. The PCC is closely bound to the force, and will be able to arrange access to police-held information from across the force area, from all custody suites and places where voluntary interviews take place.
2. While in some parts of the country a police force area covers a single Local Authority, others cover multiple Local Authority areas. By virtue of their role and relationship with forces, PCCs are best placed to bring together Local Authorities that fall within any one force area to consider how Appropriate Adult provision may be improved; a more joined up and coordinated approach could drive efficiencies for Local Authorities while assisting the police in meeting the need for Appropriate Adults.
3. PCC independence from the force makes them a more appropriate partner for Local Authorities than the police force because Appropriate Adults must be, by definition, independent of the police i.e. not under the direction or control of, or under contractual arrangements with, the chief constable of a police force.

Understanding demand

A critical aspect of effective Appropriate Adult provision is having access to accurate information about demand and needs. Although Local Authorities will have a good understanding of the needs of vulnerable adults, it can be difficult for them to access information on demand within the relevant police force area.

PCCs can ensure arrangements across the force area for the collection of relevant data, covering both custody suites and voluntary attendance interviews. In particular, it is recommended that PCCs seek data from the police force in order to understand:

- how many detentions and voluntary interviews involve adults for whom an Appropriate Adult is required under PACE;
- the demand profile (times of day, days of week, seasonal patterns, etc.);
- the proportion of Appropriate Adult demand that is currently met without using an organised scheme e.g. family member/legal guardian/other;
- in what proportion no Appropriate Adult been secured where the need has been identified; and
- time delays between request for an Appropriate Adult and arrival at the custody suite.³

This data should be analysed by PCC staff and shared with the Local Authority to ensure that Appropriate Adult services are sufficient to meet demand in the particular force area.

Analysis of demand, particularly in custody, should also consider whether there are any patterns in demand levels. These may relate to times of day, week or year or to particular public events. Assessments of demand should also cover the location of custody suites and any location used for voluntary interviews. This information can be used by Local Authorities to inform scheme design, whether it be the number of Appropriate Adults on rota at given times or the locations in which Appropriate Adult recruitment drives focus.

³ The PCC should work with the force to put in place arrangements for custody officers to record, collate and submit this information on a monthly basis. Identifying vulnerability and whether an Appropriate Adult is required is the legal duty of the custody officer.

Appropriate Adult Single Point of Contact - working with Local Authorities

Local Authority adult social care is an important partner in many areas, and this is no less the case in respect of Appropriate Adult provision. Social care has historically been the source of Appropriate Adults for vulnerable adults, is a source of highly relevant expertise and provides for clear independence from the police. Since the introduction of the Care Act 2014 there is a requirement for Local Authorities to provide services for people and to work to develop integrated support approaches for vulnerable people at risk in the criminal justice system, including Appropriate Adult services and Community Rehabilitation Services. Establishing close working relations with adult social services is therefore critical. Nominating a SPOC, with clear administrative duties, within the office of the PCC will facilitate this.

The SPOC's role will be to:

- act as point of contact between the force and Local Authority on Appropriate Adult matters;
- establish and agree respective roles and responsibilities between the force or Local Authorities within its area;
- regularly feed the information collected and analysed by the Office of the PCC through to the Local Authority for the purposes of ensuring full provision;
- raise any issues that occur, such as non-availability of Appropriate Adults or long delays between request and arrival; and
- work with the Local Authority to make potential improvements to police and Local Authority arrangements.

Monitoring

Monitoring should be a collaborative approach between the PCC and Local Authority, involving SPOCs and others as necessary.⁴

PCCs will be able to gauge the effectiveness of Appropriate Adult provision from a number of sources such as information from Independent Custody Visitors, HMICFRS/HMIP reports and custody staff within the relevant Local Authority and force area, and engagement with service users and their families.

Sharing this information with the Local Authority can inform joint reviews of arrangements and enable improvement plans to be developed as required.

4 The Local Authority and PCC may wish to engage with their local Health and Wellbeing Board, Safeguarding Adults Board or Community Safety Partnership, for example.



ROLE OF THE LOCAL AUTHORITY

Appropriate Adult Single Point of Contact – working with PCCs

It is important for Local Authorities to establish close working relations with PCCs in order that the police can secure the Appropriate Adult support needed for vulnerable adults. To facilitate this, the Local Authority should nominate a SPOC on Appropriate Adult matters to work closely with their counterpart in the Office of the PCC and ensure coordination with other Local Authority leads for criminal justice matters in adult and social services.⁵

The Local Authority SPOC role is to:

- act as point of contact between the Local Authority and PCC on Appropriate Adult matters;
- establish and agree respective roles and responsibilities between the Local Authority and force;
- discuss any issues that arise, such as non-availability of Appropriate Adults or long delays between request and arrival, or potential improvements in police practice; and
- work with the PCC to make potential improvements to police and Local Authority arrangements.

Understanding demand

Local Authorities have access to information about the prevalence of mental vulnerabilities within their areas. This includes data from their own services, Public Health England data and the Joint Strategic Needs Assessment (JSNA) used by health and social care commissioners to plan services.

PCCs will be collecting and analysing information on Appropriate Adult demand. Engagement and regular communication with the SPOC in the office of the PCC will ensure that the development of Appropriate Adult provision is as well informed as possible. In particular the information the Office of the PCC will make available to Local Authorities is as follows:

- data on how many detentions and voluntary interviews involve vulnerable people in need of an Appropriate Adult;
- a demand profile (times of day, days of week/seasonal patterns, etc);
- data showing the proportion of Appropriate Adult demand that is currently met without using an organised scheme e.g. family member/legal guardian/friend or other;
- in what proportion no Appropriate Adult been secured where the need has been identified; and
- time delays between request for an Appropriate Adult and arrival at the custody suite or place of voluntary interview.

⁵ In the interests of efficiency, Local Authorities may wish to nominate their Social Care Prisons lead as the Appropriate Adult SPOC. They should also link with the Care Act, Liaison and Diversion, Troubled Families and Drugs & Alcohol leads.

Designing an approach

Working in collaboration with PCCs, Local Authorities can determine the best approach to meet demand and achieve the necessary outcomes for vulnerable adults.

The data supplied by the PCC will help Local Authorities and PCCs decide what Appropriate Adult provision is needed and the best commissioning approach to meet demand.

A range of different approaches to ensuring Appropriate Adult provision have been adopted across England. Local areas may choose to select and combine models as required by local circumstances and preferences. See Annex B for detailed guidance on potential commissioning approaches.

Monitoring

Local Authorities can require information from relevant teams or commissioned providers. In addition to quantitative data on activity and outputs (e.g. response times and volume of call outs), this should seek to capture data on the quality of provision.

Monitoring should be a collaborative approach between the PCC and Local Authority, involving SPOCs and others as necessary.⁶

In combination with information submitted by the PCC, this data can inform joint reviews of arrangements and enable improvement plans to be developed as required.

⁶ The Local Authority and PCC may wish to engage with their local Health and Wellbeing Board, Safeguarding Adults Board or Community Safety Partnership, for example.



NATIONAL APPROPRIATE ADULT NETWORK (NAAN)

NAAN is a registered charity and membership organisation established by charities supporting mentally vulnerable people and practitioners to improve Appropriate Adult provision. NAAN provides infrastructure support for Appropriate Adult provision in England and Wales. It is funded principally by a Home Office grant and membership fees. It does not provide Appropriate Adults.

NAAN publishes the National Standards for Appropriate Adults Schemes, approved by the Home Office. The standards are also embedded in the Youth Justice Board's National Standards for Youth Justice. Organisations which hold membership of NAAN commit to adhering to the standards, irrespective of the model of delivery. Whilst not mandatory, we recommend that PCCs and Local Authorities refer to these standards when considering existing arrangements and planning future provision.

Detailed guidance on ensuring effective Appropriate Adult provision is available from the NAAN website. The guidance is aimed at staff with responsibility for developing plans on behalf of local areas and will be of interest to SPOCs for both the Local Authority and PCC.

See **Annex B**.



APPROPRIATE ADULTS: THE BASICS

ANNEX A

Which adults require an Appropriate Adult to be called?

An adult should be treated as requiring the support of an Appropriate Adult if an officer has any reason to suspect that they may be vulnerable.

'Vulnerable' applies to any suspect who, because of a mental health condition or mental disorder:

- (i) may have difficulty understanding or communicating effectively about the full implications for them of any procedures and processes connected with:
 - their arrest and detention; or (as the case may be)
 - their voluntary attendance at a police station or their presence elsewhere for the purpose of a voluntary interview; and
 - the exercise of their rights and entitlements.
- (ii) does not appear to understand the significance of what they are told, of questions they are asked or of their replies:
- (iii) appears to be particularly prone to:
 - becoming confused and unclear about their position;
 - providing unreliable, misleading or incriminating information without knowing or wishing to do so;
 - accepting or acting on suggestions from others without consciously knowing or wishing to do so; or
 - readily agreeing to suggestions or proposals without any protest or question.

(From PACE Code C)

Decisions are made on a case by case basis. Throughout any period in police custody and when dealing with suspects who have not been arrested, relevant screening tools should be used to assess whether an individual may be a vulnerable adult and requires an Appropriate Adult. This must be done initially by the custody officer when checking a person into custody. However, the possibility that a person is in need of an Appropriate Adult should not end at this point. It may become apparent to the interviewer during questioning or to the investigating officer at some other time during the investigation that an Appropriate Adult is necessary to support the individual. Custody officers and interviewers should have specific training and tools to identify the need for an Appropriate Adult.

Officers may consult people with relevant expertise where available (e.g. liaison and diversion services and health practitioners) who may provide useful information for vulnerable adult identification. However, a police officer dealing with any suspect has a duty to identify if that adult may be vulnerable for the purpose of PACE. Where they are identified an Appropriate Adult must be secured. The failure to obtain an Appropriate Adult may have serious consequences for investigations and criminal proceedings. For example, if the absence of the Appropriate Adult results in a suspect's rights and entitlements not being fully respected, evidence may be ruled inadmissible if the court considers it would be unfair to admit it. The decision is the legal duty of the custody officer.

What does an Appropriate Adult do?

An Appropriate Adult has a proactive role in safeguarding the rights and entitlements of a vulnerable adult who is suspected of a criminal offence, including their right to participate effectively in the justice process. This helps to ensure that force resources are used effectively, reducing the risk of investigations that fail as a result of evidence being obtained in a manner likely to render it unreliable.

The PACE Codes of Practice (Code C & H) describe a role for the Appropriate Adult throughout the detention and investigation process, including during: the reading of rights and entitlements; interviews (under arrest or voluntary); identification procedures; strip searches; and charge and bail. For many procedures their presence is a legal requirement. The rights of the Appropriate Adult are detailed throughout the Codes and include the right to: access the custody record; consult privately with the suspect at their request; and to ask for a solicitor to attend if this would be in the vulnerable adult's best interests.

Examples of actions that the Appropriate Adult would undertake include:

Observe and check:

- whether the police are treating a person in compliance with their rights and welfare entitlements;
- whether a person understands the meaning and significance of all information provided to them (including regarding their rights and entitlements, accusations against them, the caution, questions put to them and procedures including disposal options, bail conditions, etc.) and of their own replies; and
- whether police and other parties have understood the meaning as intended by the person;
- whether a person's condition (in relation to their vulnerability) has changed.

Advise, support and assist:

- a person, police and third parties whenever necessary to enable effective participation;
- a person whenever they are required for any procedure as per the PACE Codes, including:
 - rights and entitlements;
 - cautions and special warnings;
 - interviews and written statements;
 - ID procedures & consent (e.g. samples, fingerprints, footwear impressions, photos);
 - strip searches and intimate searches;
 - the seeking and giving of consent wherever required;
 - reviews of detention;
 - charging and related actions (e.g. bail, police cautions).

Inform:

- police where they believe the treatment of a vulnerable adult may not be in compliance with rights and welfare entitlements, escalating to an inspector or above who is not connected to the investigation, and ensure concerns are recorded during the interview and/or in the custody record;
- police if the Appropriate Adult believes the person's condition (in relation to their vulnerability) has changed significantly; and
- police where the Appropriate Adult considers it would be in the person's best interests for a solicitor to attend.

What are the intended outcomes of Appropriate Adult support?

The outcomes of effective Appropriate Adult support include:

- vulnerable adults are treated fairly with respect for their rights and entitlements;
- vulnerable adults are able to participate effectively in procedures and processes related to their detention and the investigation;
- evidence gathering can be more effective and efficient with a better quality of evidence.

What is the wider and longer-term impact?

The wider and longer term outcomes of an effective Appropriate Adult are that:

- the wellbeing of vulnerable adults is promoted (including mental health, emotional wellbeing, personal dignity and freedom from abuse);
- the criminal justice system operates fairly in respect of all adults irrespective of any particular vulnerabilities they might have;
- legitimacy increases due to greater public confidence in the criminal justice system;
- courts have increased confidence in evidence, reducing the risk of evidence being ruled inadmissible;
- efficiency increases because fewer investigations fail due to inadmissible evidence, fewer voir dire (trials within trials) are required in order to determine the admissibility of evidence and fewer appeals are raised to higher courts; and
- effectiveness increases because there is a reduced risk of miscarriages of justice and a reduced risk that the guilty are not being held accountable due to inadmissible evidence.

Who can be the Appropriate Adult?

The PACE Codes specify who should, and who cannot, fulfil the role. A key requirement is independence from the police and the investigation. The Appropriate Adult must not be a police officer, member of police staff or police volunteer unless they are a relative, guardian or carer of the vulnerable adult. They must not be involved in the investigation in any other role (e.g. a potential witness) or be a solicitor or independent custody visitor at the station.

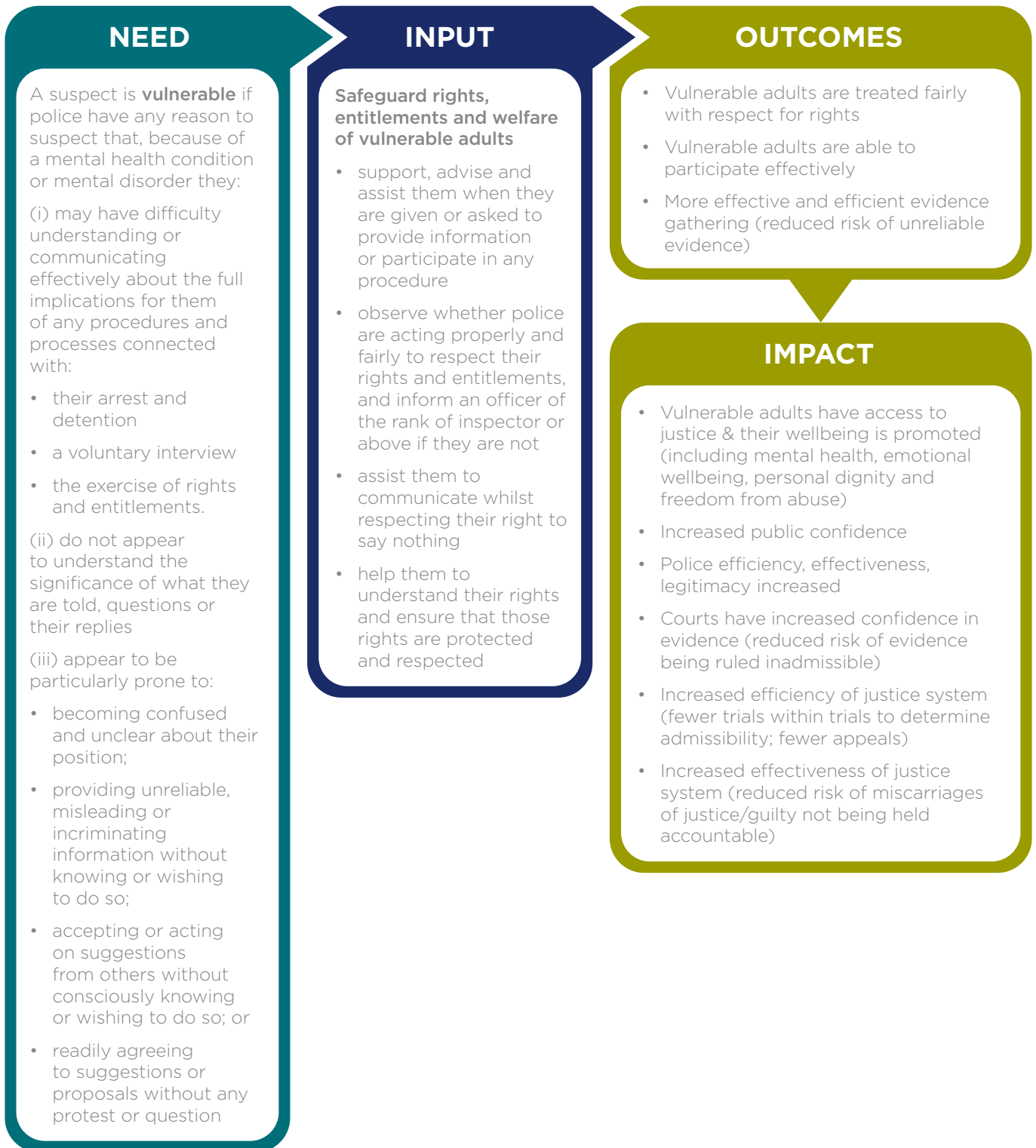
In many cases, a carer, relative or friend will be a satisfactory Appropriate Adult, and the vulnerable adult's wishes regarding the source of their Appropriate Adult should be respected wherever practicable. Where this is the case, there is no requirement to call on an external service and the police force is responsible for ensuring the individual performing the role of Appropriate Adult understands their role and can fulfil it effectively. However, where such a person is not available, willing, able or appropriate, an alternative will be required and this should be someone with relevant experience and expertise.

What are the typical sources of Appropriate Adults?

Available sources of Appropriate Adults currently vary significantly across force areas and times of the day or week. In addition to trained volunteers or paid workers from an organised scheme, Appropriate Adults for adults may be:

- family, carers and close friends;
- social workers;
- people supporting the vulnerable adult in other areas of their life, such as mental health professionals, paid or volunteer charity workers; and
- members of the public.⁷

⁷ Although permitted by PACE, using members of the public randomly as a source of Appropriate Adult support could present risks to both the suspect and police force, and would normally be symptomatic of difficulties in Appropriate Adult commissioning.





ANNEX B

Approach to ensuring the provision of Appropriate Adults

Local Authorities and other partners have adopted a range of different approaches to commissioning and provision across England and Wales. There is no nationally required model. Subject to delivering the required outcomes and taking account of legal requirements (such as independence), local areas can select and combine models based on local circumstances, preferences and partnerships.

Precise costs will vary between areas but when considering an approach against cost benchmarks, it is important to note that some costs may be 'hidden' in the system. In particular, adult social care will want to consider any current demands on its staff. The unit cost (i.e. the cost per call out) of a two to three hour detention episode supported by a qualified social worker acting as Appropriate Adult is estimated to cost £300-£400 pounds.⁸ Based on data from current Appropriate Adult providers, the average unit cost for existing organised schemes is estimated at £60-£80.⁹ Other cost drivers include volumes, scheme size, geography, quality, and whether full cost recovery is being implemented.

Whatever the arrangements, it is critical that Appropriate Adult schemes provide the responsiveness, flexibility and quality required to act as an effective safeguard.

The National Appropriate Adult Network has developed detailed guidance to support local partnerships in England and Wales. It includes information on both external commissioning and the development of internal services. It covers both children's and adult's Appropriate Adult provision, recognising that in some areas these are combined.

8 Curtis (2013) Unit costs of Health and Social Care 2013. Kent: Personal Services Research Unit. This report calculated that the average cost of face-to-face social work was £128 per hour or £171 per hour in London. Based on an average callout time of 2.5 hours at £150 per hour the unit cost per call out is £375.

9 NAAN (2015) There to Help: Paper D Results - police, Appropriate Adult schemes and liaison & diversion, p.15.

The guidance is available online at www.appropriateadult.org.uk. It is a 'live' resource which is under constant development based on feedback from users. However, at the time of publication of this Partnership Agreement, the content includes information on the following topics:

- **The need for Appropriate Adults**
 - The right to fair justice
 - Defining vulnerability and risks
- **The role of the Appropriate Adult**
 - Purpose
 - Activities
 - Mandatory presence
 - Powers
 - Professional boundaries
- **Sources**
 - For children
 - For adults
 - Prohibited individuals
 - Organised provision
- **Assessing demand**
 - Volume
 - Time of day
 - Duration
 - Locations
 - Equality and diversity
- **Assessing costs**
 - Benchmarking
 - Developing an estimate
- **Developing partnerships**
 - Frameworks
 - Lived experience
 - Funding
 - Expectations
 - Implementation partnerships
- **Developing provision**
 - Strategic principles
 - Geographical scope
 - Leadership and co-ordination
 - Appropriate Adults
 - Independence
 - Integration
 - Flexibility
 - Operating hours
 - Information sharing
 - Existing provision
 - Models of organised provision
- **The legal framework**
 - Criminal justice
 - Children
 - Health and social care
 - Other rights
 - Commissioning
- **Accountability**
 - Monitoring
 - Inspection
 - Evaluation

