

Appropriate Adults in Scotland

Carole Murphy, CYCJ

Background

Appropriate Adults provide communication support to adults who are considered vulnerable and become involved in the justice system. This can be as a victim, witness, suspect or accused person.

The first Appropriate Adult service in Scotland was established in 1991 with services being developed across Scotland thereafter. In January 2020, with the enactment of the Criminal Justice (Scotland) Act 2016 (Support for Vulnerable Persons) Regulations 2019, local authorities were given the legal responsibility to provide Appropriate Adult services.

What is an Appropriate Adult?

Appropriate Adults are individuals who have experience of working with vulnerable people and have undertaken specialist training for the role. In addition, they are members of the Protecting Vulnerable Groups (PVG) scheme.

What does an Appropriate Adult do?

It is the role of an Appropriate Adult to facilitate effective communication with the police, support people to understand what is happening and be understood during investigations. People who are referred for the support of an Appropriate Adult are:

- aged 16 years and over; and
- have communication support needs due to mental health challenges, learning disability, personality disorder and/or other factors including brain injury, cognitive impairment and neurodiverse conditions such as autism and ADHD.

The role of the Appropriate Adult does not include support for children under the age of 16. Support in these circumstances is provided by a Responsible Adult. The role of a Responsible Adult is defined under The Children (Scotland) Act 1995 as any adult who has legal responsibility for a child, for example a parent, carer or officer of the local authority. Responsible Adults offer support for children and young people up to 16 years or up to 18 years if they are subject to a compulsory supervision order. There may be some instances where a 16 or 17 year could be supported by both a Responsible Adult and an Appropriate Adult if it was in their best interests.

There is no exhaustive list of the processes where Appropriate Adult support can be provided but they could include:

- Voluntary attendance where the person is offering information as victim, witness or suspect
- Detained by police as a suspect for interview
- Where a person has been arrested and is to be cautioned and charged with an offence
- An interview outwith a police station including at a person's home
- Medical examination carried out by a police surgeon where evidence will be gathered
- Search of a property
- Identification parade

People do not need to refer for an Appropriate Adult themselves as it is the responsibility of the police to do this. The main organisation that refers for an Appropriate Adult is Police Scotland but other law enforcement agencies that operate in Scotland and may request assistance from Appropriate Adult services include:

- British Transport Police
- Border Force
- Civil Nuclear Constabulary
- Her Majesty's Revenues & Customs
- Ministry of Defence Police
- National Crime Agency
- Police Investigations & Reviews Commissioner

An example of an appropriate adult service being provided to people at court is the one operated by Clarity in Community on behalf of North, East and South Ayrshire local authorities. Although this is not a statutory part of the service, the expansion to this area of work is very much welcomed. A variety of people carry out referrals for this purpose; police, solicitors, Sheriff Clerk/Clerk of Court and Procurator Fiscal.

It may be that in addition to an Appropriate Adult, people also require other supports such as a Responsible Adult or interpreter.

The involvement of an Appropriate Adult does not affect any entitlement to a solicitor. In cases where a person in custody is entitled to Appropriate Adult support, that person cannot consent to an interview without a solicitor being present.

Appropriate Adults are not protected by the same privilege of confidentiality as solicitors. As such, any information they become aware of that is relevant to the investigation must be shared with the police. It is for this reason that Appropriate Adults will not be alone with the people they are supporting.

If Appropriate Adults consider anybody they encounter while undertaking their role to be at risk of harm, they are obligated to report these concerns to the relevant social work department.

Development of Statutory Services

There are many developments underway to ensure the experiences and outcomes for people who receive the support of an Appropriate Adult are improved. Services are currently evolving to ensure they are rights-focused, with the voices of people with experience of Appropriate Adult services informing all developments. This is in light of the Carloway Review in 2011, the recommendations of which were incorporated into the Criminal Justice (Scotland) Act 2016, the Scottish Human Rights Commission report on Disability Rights in Scotland (2017) and more recently independent reviews of Adult Social Care and delivery of forensic mental health services, both in 2021.

A National Training Programme is also being developed to ensure consistency of standards across Scotland, while the Care Inspectorate has a legal duty to assess the quality of Appropriate Adult provision in Scotland.

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