



GUIDANCE FOR APPROPRIATE ADULTS

The Police and Criminal Evidence Act 1984 (PACE) Codes of Practice provide for an appropriate adult to be called to the police station whenever a juvenile or mentally vulnerable person has been detained in police custody. Appropriate adults have an important role to play in the custody environment by ensuring that the detained person whom they are assisting understands what is happening to them and why.

The attached guidance is relevant to both those called upon to perform the role and the detained person benefiting from the appropriate adult's support. It also contains a concise statement for police personnel of the content and parameters of the appropriate adult's duties. Annex A is an outline of the roles and responsibilities of the appropriate adult. It is recommended that this, or a similar local document, be handed to an appropriate adult on their arrival at the police station. Annex B contains further detailed guidance which can be made available by the custody officer should the appropriate adult require it.

Further work in relation to the provision of appropriate adult services is being undertaken. We are increasingly aware that the quality of appropriate adult services varies significantly across England and Wales. We are collaborating with the National Appropriate Adult Network to develop a consensus about what would be useful in terms of further guidance and best practice advice.

For more information please contact John Woodcock on 020 7035 5043 or Diana Irani on 020 7035 5051.

ANNEX A

GUIDE FOR APPROPRIATE ADULTS

Your roles and responsibilities as an appropriate adult

You have been called to the police station to act as an appropriate adult in support of either a juvenile detainee or a detainee who may be mentally disordered or otherwise mentally vulnerable.

You should not act as the appropriate adult if you received admissions or denials from the detained person before you came to the police station.

You have a positive and important role. You should not expect to be simply an observer of what happens at the police station.

You are there to ensure that the detained person for whom you are acting as appropriate adult understands what is happening to them and why. Your key roles and responsibilities are as follows:

- To support, advise and assist the detained person, particularly while they are being questioned.
- To observe whether the police are acting properly, fairly and with respect for the rights of the detained person. And to tell them if you think they are not.
- To assist with communication between the detained person and the police.
- To ensure that the detained person understands their rights and that you have a role in protecting their rights.

It is not your role to provide the detained person with legal advice.

Your conversations with the detained person are not covered by legal privilege.

Further guidance on your role is available from the custody officer.

ANNEX B

FURTHER GUIDANCE FOR APPROPRIATE ADULTS

Rights of detained persons

When you arrive at the police station the custody officer must tell the detained person, in your presence, that they have the following basic rights:

- The right to have someone informed of their arrest.
- The right to consult privately with a solicitor and the fact that independent legal advice is available free of charge.
- The right to consult the Codes of Practice setting out the powers, responsibilities and procedures of the police.

These are continuing rights which may be exercised at any stage during the person's period in custody. However, there are some special times when some or all of these rights may be delayed.

The custody officer must also give the detained person a written notice of these basic rights, together with an additional notice of their other entitlements such as reasonable standards of physical comfort, adequate food and drink, access to toilet and washing facilities, clothing, medical attention, and exercise where practicable. That notice of entitlements should also mention the circumstances in which an appropriate adult should be available to the detained person.

Your rights as an appropriate adult

- To be told why the detained person is being held.
- To speak to the detained person in private at any time.
- To inspect the written record of the person's period in detention (the custody record) at any time.
- To see copies of the notices of rights and entitlements referred to above.
- To see a copy of the Codes of Practice setting out the powers, responsibilities and procedures of the police.
- To intervene in an interview if you feel it is necessary and in the interests of the detained person to help them communicate effectively with the police.

- To ask for a break in any interview, either to seek legal advice or consult with the detained person (particularly if the interview is a lengthy one or if the detained person is distressed or ill).

You are entitled to be present during any procedure requiring information to be given by or sought from the detained person. Also, when any form of consent is sought from the detained person or they are asked to agree and/or sign any documentation. In particular, you are entitled to be present:

- When the custody officer informs the detained person of their rights and entitlements.
- When the detained person is cautioned.
- During any police interview with the detained person at a police station.
- When the detained person is charged.
- Subject to strictly limited exceptions, during any search of the detained person involving the removal of more than outer clothing.
- When the need to keep the person in detention is reviewed.
- During any form of identification procedure such as an identification parade.
- During any process involving the fingerprinting or photographing of the detained person or when a sample is taken from them.

You are not entitled to be present during private legal consultations between the detainee and their legal representative.

Legal advice

You should consider whether legal advice from a solicitor is required. You should normally speak to the detained person in private before deciding whether legal advice should be requested.

The detained person can speak to a solicitor at the police station at any time. It will cost them nothing and they can speak to the solicitor privately either on the telephone or at the police station.

Even if you decide that a solicitor is not necessary when you first arrive at the police station, you can change your mind about that at any time.

Even if the detained person says that they do not want legal advice you have the right to ask for a solicitor if you feel that would be in their best interests.

However, while a solicitor can be called to the police station, the detained person cannot be forced to see them if they are adamant they do not wish to do so.

If you or the detained person want a solicitor to be called you should tell the custody officer at once.

Questioning

One of the main reasons for detaining a person at a police station is to ask them questions. The police should only ask them questions in your presence and before questioning begins the detained person should be cautioned in the following terms:-

“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.”

Your main role is to ensure that in any interview which follows the person detained understands the questions which are being asked and that the police do not ask questions in a way which is confusing, repetitive or oppressive.

Almost all interviews are audio tape recorded, but more and more interviews are video recorded. There is a procedure for recording. In an interview you should not feel that you have to remain silent. You are entitled to intervene at any stage.

You should always make sure that when questions are asked the person detained understands them and that the police understand the reply.

If you are unhappy about the way in which the interview is being conducted then you are entitled to ask them to stop the interview so that legal advice can be taken from a solicitor.

Any queries or complaints about the conduct of the interview should be made to the custody officer.

Identification

In the course of the police enquiry they may well ask the person for their consent to the taking of fingerprints, photographs, the giving of DNA samples

or the taking of intimate or non-intimate samples. The rules for sample taking are complex and you and the detained person may wish to take legal advice before agreeing to any of these requests by the police.

Similarly the police may ask the detained person to agree to take part in an identification parade or other identification procedure which could include identification by video, in a group or through a confrontation.

These too can be complex and you and the detained person may wish to take legal advice before consenting to or refusing to take part in any of these procedures if asked to do so by the police.

How long can a person be detained?

The custody officer should ensure that police inquiries are conducted as quickly as possible and that detained persons are released as soon as the need for detention has ceased to apply. A person may be detained for up to 24 hours without charge, having had their detention reviewed by the review officer. A person can only be kept for longer than 24 hours in the most serious cases and the consent of a superintendent or a court is required. If the police suggest that they wish to keep a person for longer than 24 hours then the detained person should take legal advice from a solicitor.

What happens next?

At the end of a police investigation the custody officer will consult with the officer in the case before deciding whether to release the detained person from custody without charge or to release them from custody to come back to the police station for a further interview on another day or to charge them and if so whether to keep them in custody to appear before the next available court or release them on bail to appear in court on a future date.

You will have to be present at the time when the detained person is told of this decision and, if the person is charged with an offence, when the charge is read to them. If the detained person is to be charged or cautioned the police may want to take photographs, fingerprints and perhaps a DNA swab from the mouth and/or a sample of body hair. You will need to be present for all of these procedures.

People you may meet at the police station

1. Custody officer

The custody officer is the person responsible for the welfare of people in custody. The custody officer is not involved in the investigation of the offence. The custody officer keeps a full record of the detained person's time at the police station and decides what happens to them

at the end of the investigation having spoken with the officer in the case.

2. Officer in the case

The officer in the case is the police officer responsible for investigating the crime that is suspected. They would usually conduct the interviews with the detained person and should not speak to the detained person except in your presence.

3. Review officer

Usually an inspector or above who is not directly involved in the investigation. Under normal circumstances a person's detention is reviewed not later than 6 hours after they first arrived at the police station and if they are detained longer it will be reviewed at intervals of not more than 9 hours after the first review. It is the review officer's job to ensure that the reasons for detention still exist and representations can be made to the review officer by the detained person, the appropriate adult or a solicitor about the continuing need for detention or any connected matter of concern.

4. Defence lawyer

A defence lawyer is a solicitor or representative who is independent of the police, and whose job it is to protect and advance the legal rights of the detained person. They are required to act in the best interests of the detained person. The detainee and defence lawyer can meet privately without an appropriate adult.