

Appropriate Adults

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Scottish Association for the Study of Offending
Glasgow Branch Annual Conference - Thursday 14 May 2015

Appropriate Adults - Background

- Do not operate on a statutory basis
- 1990 - Guidance issued to the Police
- 1991 - First AA Service commences in Fife
- Scottish Appropriate Adult Network (SAAN)
- March 2015 - Revised Guidance and National Standards

Scottish Appropriate Adult Network

- Appropriate Adult Coordinators
- Scottish Government
- Police Scotland
- Social Work
- Judicial Institute for Scotland
- Crown Office and Procurator Fiscal Service
- Mental Welfare Commission

Mental Health (Care and Treatment) (Scotland) Act 2003

Defines a mental health issue, learning disability, autistic spectrum disorder, dementia and / or acquired brain injury as 'any mental illness, personality disorder or learning disability, however manifested'.

Interviewee can be:

- Victim
- Witness
- Suspect
- Accused

Communication Needs

- Filling in forms
- Following instructions
- Concentrating for long periods
- Understanding or describing time periods
- Remembering things
- Reading, writing and comprehension
- Explaining things
- Understanding social norms and the world around us

Impact of Mental Disorder

Can lead to:

- misleading statements
- inappropriate responses
- lack of understanding of events
- the police and / or PF being unable to proceed despite best evidence

Role of Appropriate Adult

- to help the person understand why they are being interviewed and the questions they are being asked
- to ensure as far as possible the person understands their rights
- to ensure they understand and give informed consent for any examination or other police procedure

NOT the function of the Appropriate Adult to:

- advise the person being interviewed whether or how to answer any questions
- to object to any questions being asked except for the purpose of facilitating communication between the police and the interviewee
- to tell the police if they think a particular line of questioning is unfair
- to offer support after interview or help arrange ongoing referrals

Statistics 2012-2013

West of Scotland AA Service

- 1275 requests for Appropriate Adults
- 70% of referrals in relation to suspect / accused interviews
- 30% in relation to witness interviews
- 60% of referrals in relation to Learning Disability
- 35% of referrals in relation to Mental Health
- 5% of referrals in relation to Dementia / Acquired Brain Damage or were unknown
- Gender split was 67% male: 33% female

Glasgow and Partners AA Service

- City of Glasgow
- East Dunbartonshire
- West Dunbartonshire
- Renfrewshire
- East Renfrewshire
- Inverclyde

Appropriate Adult Training

- Roles of key players
- Specialist speakers
- Role play
- Sheriff Court visit
- Shadowing
- Team meetings
- Supervision

Indicators

- excessive anxiety
- unusual mood
- incoherence (not apparently brought about by drugs or alcohol)
- an inability to understand / answer questions
- unusual behaviour traits

At the Police Office

- AA briefed by Investigating Officer(s)
- Pre interview
- Section 14 and Welfare procedures
- Solicitor Access Recording Form (SARF)
- Lord Advocate Guidelines
- Solicitor consultation

Interview Stage

Vulnerable interviewees may well have great difficulty with questions unless these:

- are simple
- do not contain jargon
- do not contain abstract words
- contain only one point per question
- are not too directive / suggestive
- do not contain double negatives

Common Law Caution

‘You are going to be asked about (event). You are not bound to answer, but if you do, your answers will be recorded, may be noted and may be used as evidence. Do you understand?’

Post Interview Procedures

- Check the person has understood the outcome
- Accompany to Uniform Bar
- Fingerprints
- Photographs
- DNA

Other Procedures

- house searches
- serving of petition warrants
- house detentions
- video identification (VIPER) parades
- traditional ID parades
- precognitions
- medicals

Common Offences

- Domestic and other assaults
- Contraventions of Section 38 Criminal Justice and Licensing (Scotland) Act 2010 - statutory breach of the peace
- Contraventions of the Telecommunications Act, 1996
- Rape and sexual assault - including historic cases
- Cases are often serious, potentially High Court

Victims and Witnesses

- Limited ability to identify risky situations
- Lack of understanding of the motivation of others
- Communication difficulties
- Poor social understanding
- Vulnerability to being tricked or exploited by others
- Being targeted as 'easy victims' who will not report crimes

Interview Locations

- police offices
- witnesses' homes
- hospitals
- care homes
- day centres
- specialised services e.g. Archway Sexual Assault Referral Centre

Implications of failure to have AA present

- May render interview inadmissible
- English case: R v Aspinall (Paul James) (1999)
MHLR 12
- Mental Welfare Commission: 'Justice Denied'

Role of Appropriate Adult - Court

- can be cited as a witness by either the Procurator Fiscal or the Defence regarding the process, as opposed to the content, of the interview
- can also be asked to attend court to support a person with a mental disorder at any stage of the court process
- Vulnerable Witnesses (Scotland) Act 2004
- Appropriate Adult - not a 'special measure'

High Court Trial

- daily meetings with the Pannel and his QC / Defence Team
- sitting with the individual in the dock
- advising the court when a break was required
- taking notes of the evidence in court
- checking during breaks the person's understanding of the evidence
- highlighting any concerns as appropriate

Suggestions for improving the service

- Putting Appropriate Adult Services on a statutory basis
- Reviewing automatic citation of Appropriate Adults as witnesses
- Simplification of Solicitor Access (SARF) procedures