

## Crime and Criminal Justice Research Programme

### An Evaluation of Appropriate Adult Schemes in Scotland

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This research evaluated the operation of appropriate adult schemes throughout Scotland in 2002. The role of an appropriate adult is to provide support and reassurance to any person being interviewed by the Police as a victim, witness or accused and to ease communication with the Police. Although not established on a statutory basis in Scotland, the use, or failure to use, an appropriate adult has had legal implications. This study examined the effectiveness of appropriate adult schemes and makes a series of recommendations to improve the operation of the schemes in Scotland.

### MAIN FINDINGS

- In 2002 there were 16 appropriate adult schemes covering the whole of Scotland and 414 appropriate adults.
- Although there was widespread awareness of appropriate adult schemes amongst the professionals questioned (police, forensic psychiatrists, forensic medical examiners, voluntary organisations) there were some common misconceptions and a lack of clarity about the operation and management of appropriate adult schemes.
- There was evidence of a general under utilisation of schemes across Scotland suggesting that not all those who required an appropriate adult were offered the support of one.
- Recording practices and monitoring varied greatly between schemes, with only 10 of the 16 schemes recording data on the use of appropriate adults.
- There was widespread support amongst appropriate adults and scheme co-ordinators for schemes to be placed on a statutory basis in Scotland.
- Almost all appropriate adults had received training relating to their role, however training amongst other professional groups was low.

## Methodology

The evaluation comprised a full literature review, and collected all existing written materials and reports produced by the schemes. Data were also collected by questionnaire or semi-structured interview from scheme coordinators (16), appropriate adults (122), police officers (235), legal professionals (7), forensic medical examiners (67), forensic psychiatrists (16) and voluntary organisations (22). However, the response rate for most groups were low, and so the findings reported here are only indicative of the opinion of the group as a whole, rather than representative.

In addition, a study of psychiatric morbidity in a Police station was carried out to examine the prevalence of mental disorder in that setting over a 72-hour period and use of appropriate adults.

## Appropriate adults schemes

Mental disorders are wide ranging and have both clinical and legal definitions (clinical definitions include ICD-10, WHO, 1993; legal definitions include the Mental Health (Scotland) Act 1984 and the Mental Health (Care and Treatment) (Scotland) Act 2003). Mental disorders can impair communication and comprehension and symptoms such as delusional thinking, limited insight, emotional distress and suggestibility can distort a Police interview and disadvantage the interviewee. Appropriate adult schemes are designed to assist with these problems.

Appropriate adults are people who have an understanding of mental disorder and are experienced and/or trained in dealing with individuals with mental disorder. They cannot be Police Officers/employees of the Police Force or relatives or friends of the interviewee. Carers or former carers or anyone in a long term professional relationship with the interviewee are also precluded (Scottish Office, 1998).

## Use of Appropriate Adults

According to the 1998 guidance on interviewing people who are mentally disordered (Scottish Office, 1998) if a Police Officer suspects that a person being interviewed has a mental disorder then an appropriate adult is required. This assessment can be made by considering external information from the interviewee's General Practitioner, Carer or Social Worker. The interviewee may also provide information themselves about their mental disorder. Where unusual behaviour at interview occurs, such as excessive anxiety or agitation, incoherent speech, failure to understand or answer questions, the interviewing Officer should also consider requesting the attendance of an appropriate adult.

The decision to call an appropriate adult is the responsibility of the interviewing Police Officer.

## Findings

In 2002 there were 16 appropriate adult schemes across Scotland, 13 of which were Social Work led. Ten had a multidisciplinary steering group and it was these schemes which were more likely to have developed local policies and guidelines. Only 10 schemes were able to provide statistics on appropriate adult use in 2002. These 10 schemes, covering 86 percent of the population of Scotland, recorded 707 appropriate adult call outs in 2002.

There were 441 appropriate adults in Scotland in 2002, of which 70 percent were Social Workers including 30 percent who had Mental Health Officer status. The remainder came from a variety of other professions including nursing. The number of call-outs received varied considerably between areas. For example the average number of call outs per appropriate adult in the West of Scotland was over 20, whereas in other areas such as Ayrshire, Dumfries & Galloway and Shetland it was less than one.

There was evidence of a general under utilisation of all schemes although call out rates varied. It was calculated that a number of suspects, witnesses and victims were likely to have required the presence of an appropriate adult but one was not called.

There was also a difference between the estimated number of appropriate adult call outs in 2002 (827) and the number of persons proceeded against in Court estimated to have a diagnosis of schizophrenia, learning disability or dementia (1,557). This is despite the current guidance (Scottish Office, 1998) stating that appropriate adults should be used for all forms of mental disorders, all crimes and offences, and for suspects, victims and witnesses.

In an examination of psychiatric morbidity in one Police station, high rates of mental disorder, including severe neurotic symptoms, psychotic symptoms and learning disabilities were found. However, no appropriate adults were requested to attend any interviews in the Police station over the observation period.

## The Appropriate Adults

There was an even split between appropriate adults who acted in a voluntary role and those who undertook such duties as part of their employment.

Appropriate adults reported that most calls they attended were to individuals with a learning disability. Most appropriate adults took notes during the interview in order to accurately recall the interview conduct and to assist when appearing in Court as a witness.

One in four appropriate adults had given evidence in court on either the conduct or the content of the police interview or both. The majority of those giving evidence in court had found it distressing.

Most appropriate adults thought the schemes reduced the stress and anxiety of users and aided communication with the Police. They did not feel they increased or decreased the likelihood of obtaining a confession. The majority felt appropriate adults increased the fairness of the criminal justice system although a significant proportion expressed concern that the presence of an appropriate adult may make an individual think they have legal representation.

Of note was the general lack of knowledge amongst appropriate adults about the Scottish Appropriate Adult Network, which may wish to consider how to raise its profile

## Awareness amongst other Professionals

### **Police Officers**

Each Police Force in Scotland had published guidance on the use of the appropriate adult schemes. These guidelines were easily accessed on the Force intranet in most areas. Only 38 per cent of officers questioned had used an appropriate adult. In a significant proportion of cases, although a mental disorder was recognised by the officer, an appropriate adult was not called. This primarily occurred with victims and witnesses rather than suspects, although the scheme should be used for all 3 groups.

Officers reported that contacting an appropriate adult was most commonly done through the Force control room or by direct contact with the relevant Social Work department.

### **Legal Professionals**

Few legal professionals were willing to take part in this study citing their lack of knowledge of the schemes. Even amongst the few who did participate there was poor knowledge in general, and little experience of appropriate adult schemes. This supports the views of other professionals questioned which suggested that legal professionals do not fully understand the role of an appropriate adult.

### **Forensic Medical Examiners (FMEs)**

FMEs also showed a lack of knowledge about the schemes despite appropriate adults requiring to be present for medical examinations of people with mental disorder (Scottish Office, 1998).

In addition, it is FMEs the police should consult if they are in doubt as to whether an individual has a mental disorder or not and therefore warrants the presence of an appropriate adult. However, the ultimate decision rests with the interviewing police officer.

None of the FMEs questioned had been involved with their local appropriate adult scheme.

### **Forensic psychiatrists**

In contrast, awareness of schemes was high amongst forensic psychiatrists questioned although knowledge of the precise workings of the schemes and their position in criminal law was less well known.

There was a tendency for psychiatrists to view appropriate adults as only being necessary in cases where mental disorder was severe and to rarely use them when individuals were admitted as an inpatient, thereby falling short of the recommendations in the guidance (Scottish Office, 1998).

### **Voluntary organisations**

Despite the 1998 guidance encouraging schemes to involve the voluntary sector many voluntary organisations have been unable to do so, some specifying resources as the reason for this.

## Training

The vast majority of appropriate adults had received training on their role, primarily from Social Workers and Police Officers. Training was generally considered comprehensive, although many considered that additional training was necessary on participating in court either as an appropriate adult or as a witness to the police interview.

In contrast, many of the other professionals dealing with appropriate adults had not received training. About three-quarters of scheme co-ordinators questioned had not received any training, despite the fact that most delivered training to appropriate adults themselves.

Many of the Police Officers questioned identified the need for more training in identifying mental disorders. The majority thought that more training would help them identify individuals with a mental disorder and increase the use of appropriate adults.

## Conclusions

Overall, despite general under utilisation, appropriate adult schemes were felt to be worthwhile and providing a service of benefit to users. There was strong support for the use of social or health service staff in the role of appropriate adult as is the case at the moment. The lack of knowledge of the schemes amongst some professional groups and the misconceptions about the scope and operation of schemes is concerning.

## Recommendations

### Appropriate Adult Schemes

1. All appropriate adult schemes should have a multi-disciplinary steering or working group.
2. Each scheme should provide an annual report to its lead agency, the Chief Constable of the local police force, the relevant Director(s) of Social Work, the National Scottish Network of Appropriate Adult Schemes and to the Scottish Executive. This should contain the scheme's aims, organisational structure, training schedule, referral numbers, accounts, information on complaints and disciplinary proceedings, and performance indicators. It should record any particular problems encountered and solutions found where applicable.
3. Steering group members should have adequate time allocated from their base job to fulfil their role.
4. Every scheme should have an appropriate adult recruitment and training policy.
5. It is reasonable for appropriate adult schemes to use the complaints and disciplinary procedures of their lead agencies or in some cases those of the appropriate adult's employer, but a feedback loop should be developed to ensure that the coordinator and steering group have details and statistics on these matters.
6. Each scheme should develop an accounting process to record its costs and to provide a basis for accurate costs of any future developments.
7. All schemes should keep records of each call. Appropriate adults should submit a call completion form after each attendance. This could be linked to submission of an expenses form to encourage completion.
8. A standardised three-form process (referral, post interview, at precognition or court) should be introduced throughout Scotland. The National Scottish Network of Appropriate Adult Schemes should be used to establish the format.
9. The term appropriate adult should be retained as it is identifiable in the literature and is slowly becoming more widely recognised in Scotland.

10. Many schemes already cover several local authorities and there is evidence to suggest that coterminous scheme and police force areas improve appropriate adult call out rates. There would however, be major geographical and organisational issues to be considered if this was to be implemented. Each police force serviced by more than one appropriate adult scheme should therefore convene a meeting of scheme coordinators, representatives from the lead agencies and steering group members within its area to discuss the advantages and disadvantages of potential amalgamation of these schemes.

### Appropriate Adult Scheme Coordinator

11. The Scottish Executive should recognise the position of the scheme coordinator and provide guidance on their role, responsibilities and duties.
12. All coordinators should have a clear line of responsibility. Each coordinator should report to a steering group and have a professional line manager from the lead agency.
13. The coordinator should take the lead role in the production of the annual report on the functioning of the scheme.
14. Coordinators should be responsible for the development of a supervision system to ensure good practice amongst appropriate adults. Not all coordinators will be appropriate supervisors.
15. Coordinators of each scheme should ensure that appropriate adults have access to a confidential counselling scheme. This is a separate role from supervision or debriefing, although this will help to identify those in need of counselling.
16. An induction package for new coordinators should be developed by each scheme.

### Definition of Mental Disorder

17. The use of the term mental disorder requires much tighter definition to avoid excessive application.
18. It is unreasonable to conclude that all mental disorders require the presence of an appropriate adult. Further guidance should be given on this. Appropriate adults are required when a mental disorder interferes with a person's ability to understand and communicate.

### Identification of Mental Disorder

19. Police forces should develop a standard list of questions to identify people with a mental disorder that warrant the use of an appropriate adult. This should be applied to witnesses, victims and suspects.
20. Individuals with a history of appropriate adult use should have this marked on the Police National Computer to alert officers should that individual come into custody again.

21. Police officers should automatically record the use of an appropriate adult in their report to the procurator fiscal.
22. The use of medical alert cards for people with a major mental disorder should be encouraged. This would assist the police in identifying those individuals who require the presence of an appropriate adult.

## Appropriate Adults

23. Each scheme should review the number of appropriate adults it requires allowing for future increased use. Each appropriate adult must obtain enough experience with users to develop expertise in the role. This review will provide an opportunity to consider the type of person to act as an appropriate adult. Mental health professionals, social workers and trained volunteers are currently considered to be the most suitable people to act as appropriate adults but consideration should be given to exclusive or greater use of mental health officers.
24. There should be a local agreement with all employers of appropriate adults on job release to carry out this role, including time in court.
25. All appropriate adults should be subject to police vetting.
26. Appropriate adults should have identification cards.
27. Each scheme should have an appropriate adult rota with a reserve for identified cases of conflict of interest, such as the user being a professional client of the proposed appropriate adult.
28. Each scheme should set a standard time from referral to arrival of the appropriate adult at the police station. This should be recorded and statistics included in the annual report.
29. Appropriate adults should not act for known clients to avoid any confusion by the user or appropriate adult about their role.
30. Appropriate adults should ensure that users understand their role and that it is not confused with that of a legal representative or an advocate.
31. The role of an appropriate adult is distinct from any other professional role held by that individual and should not be confused. The appropriate adult may be able to advise the police on suitable services and support for a user post interview but it is not their primary responsibility.
32. The routine forms should contain a checklist of tasks to prompt appropriate adults in different situations. For example, this will ensure that appropriate adults hear the police repeat the user's caution and rights and check that these have been understood.
33. Clarification is required from the Scottish Executive on appropriate adults seeing users alone. This encourages rapport but the safety of the appropriate adult should be considered in each case and the user fully informed that any topic of discussion is not confidential.

34. All appropriate adults should take notes. If appropriate adults can be questioned on the content of an interview then they should be allowed to take notes on this, as well as on the conduct of the interview. This should be clarified in the guidance from the Scottish Executive.
35. A system should be developed for appropriate adult note storage. This could be done either in a police style notebook for all such notes and kept by the appropriate adult or on a separate form to be submitted and stored by the coordinator until, and if, required for the purpose of giving evidence.
36. Each scheme should establish a forum for local appropriate adults to share experience and support.
37. All appropriate adults should have a formalised supervision arrangement.
38. There is the potential for appropriate adults to be emotionally traumatised by the nature of the subject discussed in a police interview. Volunteer appropriate adults should be free to withdraw from an interview at any stage and should be briefed prior to the interview on the nature of the material to be discussed. A confidential counselling scheme should be available to any appropriate adult identified during supervision, or making a self-referral, with issues arising from their role.

## Training

39. A core training programme for appropriate adults, to be delivered locally and adapted to the individual circumstances of each scheme, should be developed under the auspices of the Scottish Appropriate Adult Network.
40. At the end of basic training each appropriate adult should be given a certificate to this effect.
41. Appropriate adults should attend a refresher course at least every 3 years.
42. Appropriate adult training should include practical exercises on the role of the appropriate adult as a professional witness in court.
43. All new coordinators should be required to undertake basic training to increase their understanding of the scheme, unless this had been completed in a previous role. Such training should be offered to existing coordinators who have to date received no formal training.
44. All new appropriate adult steering group members should be required to undertake basic training to increase their understanding of the scheme, unless this had been completed in a previous role. Such training should be offered to existing members who have to date received no formal training in the scheme.
45. All police officers should receive basic training on the recognition and management of people with mental disorder, as recommended by the Mental Welfare

Commission (1994). This should include training on the use of appropriate adults.

46. Awareness and knowledge of the appropriate adult scheme amongst legal professionals should be increased. Training is required, particularly for procurators fiscal, advocates depute, sheriffs and judges. If the scheme were to become statutory, this should be accompanied by statutory guidance issued by the Scottish Executive which should recommend a framework for training legal professionals.
47. Training on the appropriate adult scheme should be offered to forensic medical examiners and psychiatrists.
48. Appropriate adult training should include basic information on the forensic medical examiner role and examination techniques.

## Legal Issues

49. The appropriate adult scheme should become statutory to ensure equality of provision throughout Scotland. There are a number of issues however, that need to be addressed:
50. The current schemes are not robust enough to cope with any major increase in the use of appropriate adults. Any legislation to make the scheme statutory should delay its implementation to allow time for the necessary development.
51. The use of the term mental disorder requires much tighter definition to avoid excessive application (see recommendations 17 and 18).
52. Guidance should set out the reasonable steps that a police officer should have been seen to take to determine if a mental disorder was present. This should include recognition of the difficulties in carrying out this assessment secondary to an individual's intoxication with alcohol or drugs.
53. Any proposed statutory status to the scheme should apply to suspects but not to victims or witnesses.
54. The role of the appropriate adult in court with a user should be clarified in guidance. This should describe their location, their method of communication with the client to ensure comprehension regarding proceedings, and their means of communication with the sheriff / judge in the event of a problem.
55. The development of a witness supporter in the Vulnerable Witnesses (Scotland) Act 2004 should be noted by appropriate adult schemes and its implementation followed.
56. A legal opinion is required on the limitation of questions in court to appropriate adults on the conduct of a police interview alone. The current guidance suggests that questions to an appropriate adult should be on conduct of the interview alone but they report being questioned on the content of the interview. At the present time

appropriate adults do not keep notes on the content of the interview and indeed the guidance states that they should not. The credibility of any witness is much reduced without notes.

57. Advance notice of the need for an appropriate adult in court and an indication of the likely time scale should be given by the Crown for victims and witnesses and by the defence or the court for the accused. All should have access to information on how to make a referral to the local scheme.
58. The prosecution should automatically bring to the attention of the defence the presence of an appropriate adult during a police interview
59. The prosecution should arrange the presence of an appropriate adult for victims and witnesses at court if appropriate. This is the responsibility of the defence for the accused and defence witnesses.

### Scottish Appropriate Adult Network

60. The Scottish Appropriate Adult Network should be strengthened.
61. All schemes should be required to send at least one representative, preferably the coordinator, to meetings. Attendance should be funded by existing schemes.
62. The Network should have the ability to request funds from the Scottish Executive and, on a proportional basis per head of population served, from each scheme for specific projects such as the development of a national core training programme or standardised forms.

### Future Scottish Executive Guidance

63. The Scottish Executive should consider updating its guidance in light of this report.
64. Future guidance should emphasise that appropriate adults have a duty to pass on relevant information to the police and clarify whether an appropriate adult can be alone with the user. This should be an available option open to the appropriate adult and the user to help establish rapport after an introduction by the police unless there are safety concerns.
65. Users who are fit for interview should have the right to refuse the presence of an appropriate adult. This refusal should be made to the appropriate adult in person to ensure that independent confirmation is obtained. This would prevent any accusation being made that the police failed to request or coerced an individual into refusing the presence of an appropriate adult.
66. Solicitors should not have the right to refuse the presence of an appropriate adult on behalf of their client.
67. Guidance is required from the Scottish Executive on the right of an individual to refuse the presence of an appropriate adult at a medical examination and whether a forensic medical examiner can go ahead with an

examination in urgent circumstances. Both of these are reasonable. The presence of an appropriate adult of the same gender at a medical examination may be supportive to a user but should not be a legal requirement.

68. The guidance should stress that fitness for interview is a medical decision.
69. The guidance should remind police officers to take a statement from appropriate adults about the conduct of any interview and to ask appropriate adults to countersign any documents signed by the interviewee.

#### **Guidelines for Relevant Professional Groups**

70. Guidelines should be developed for forensic medical examiners on their role with the appropriate adult scheme. The Association of Police Surgeons may be able to advise on this. In particular this should address the distinction between the issues of fitness for interview and need for an appropriate adult.
71. A local forensic medical examiner should be invited to join the steering group of each appropriate adult scheme.
72. Guidelines should be developed for psychiatrists on their role with the appropriate adult scheme. These could be drawn up in conjunction with the Scottish Division of the Royal College of Psychiatrists. The guidelines should be widely disseminated through mental health / community trusts.

## **Mental Health Services**

73. Each mental health trust should develop a policy for the use of appropriate adults during police interview with known patients. An appropriate adult should always be present during a police interview in a psychiatric hospital. Staff should not be used as appropriate adults.

## **Voluntary Organisations**

74. Voluntary organisations in the mental health field should be encouraged to prepare guidelines for their staff on the appropriate adult scheme and its organisational position.
75. Funding may be required to cover the costs of voluntary sector staff being involved with appropriate adult schemes.
76. All steering groups should have representatives from local, relevant voluntary sector agencies.

## **References**

### THE TWO MENTAL HEALTH ACTS

Scottish Office (1998) Interviewing People who are Mentally Disordered: "Appropriate Adult" Schemes, Mel No. 43/1998.

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