

Guide to being an Appropriate Adult

Summary	See section
This guide is for people who have been asked to be an Appropriate Adult (AA).	1
The police must contact an AA whenever they detain or interview a person who: -	
<ul style="list-style-type: none"> • is under 18 years old, or • has a mental disorder or is otherwise mentally vulnerable. 	2
A person's AA supports, advises and assists them to make sure that they: -	
<ul style="list-style-type: none"> • understand what is happening and its significance • understand what their rights are • understand the questions they are asked, and others understand their answers • are treated fairly and their rights are respected 	3
For a child, an AA should be the person who is legally responsible for a child, a social worker or someone from an organised AA service. For an adult, the AA should be someone experienced in supporting mentally vulnerable people. An organised scheme may be available but if the person prefers a family member this should be respected.	4
It is your decision whether to agree to be the AA. Some people are not allowed.	5
An AA has a role throughout a person's voluntary interview or time in custody; from when they are told their rights, right through to when the police decide what to do with them.	6
Being an AA will often take 3 to 5 hours but serious cases can take several days. Depending on the circumstances, you may not need to stay in police custody at all times.	7
As an AA you have a number of important rights including: -	
<ul style="list-style-type: none"> • Viewing the custody record and being told about any risks to your safety • Securing legal advice even if the vulnerable person says they do not want it • Having private conversations with the vulnerable person • Being able to intervene in interviews if the police are not acting fairly, there is a problem with communication or a break is needed. 	8-9
The PACE Codes of Practice are the police's rule book. Code C is the most important. The Custody Officer must ensure the investigation and treatment of detained people is fair.	10
Police must provide a notice of rights and entitlements. The AA should also get a copy. Ask for this as soon as possible. A person can be normally detained for up to 24 hours but this can be increased in extreme circumstances. AAs cannot give legal advice or consent.	11-14
The process ends with a 'disposal'. The person will either be released or held until the next available court. Police disposals can appear on criminal record checks and have a significant impact on a person's life. Some require consent and/or admissions of guilt. You should ensure full understanding and consider seeking legal advice.	15

1. Who is this guide for?

This guide is for anyone who has been asked to be an Appropriate Adult (AA) and has not had training in the role. It may also be of interest to people who need an AA and police officers seeking a summary.

2. Why is an Appropriate Adult needed?

The police need an AA whenever they detain or interview someone that they think may: -

- be under 18 years old¹; or
- have a mental disorder or be mentally vulnerable in another way.²

Without an AA, the police are not allowed to carry out important procedures like interviewing, taking fingerprints or DNA samples. This is because vulnerable people may be more likely to: -

- not fully understand their rights
- not understand the significance of the questions they are asked or of the replies they give
- unintentionally provide unreliable, misleading or self-incriminating information
- give a false confession in order to please or to get out of custody more quickly.

3. What is an Appropriate Adult?

An AA supports someone while they are being detained or otherwise interviewed by police. They have a positive and important role in ensuring fairness in the justice system. This includes both observing and actively participating in what happens. In particular they: -

- support, advise and assist the person
- ensure that the person understands their rights
- ensure that the police act fairly and respect the rights of the person
- ensure effective communication between the person, the police and others.³

4. Why have I been asked to be the Appropriate Adult?

For children, the police must first seek a parent, guardian, care organisation representative or social worker⁴. If none are willing, available or suitable, the local Youth Offending Team (YOT) must ensure an AA is provided⁵. The person they send may be paid or a volunteer but they should have relevant training and experience.

For vulnerable adults, the police should first seek someone experienced in dealing with people who have mental disorders or mental vulnerabilities (e.g. learning disabilities). Organised schemes exist in some areas but if the detained person prefers a relative, guardian or other carer, the police should respect their wishes. Failing these, the police can ask any responsible person aged over 18⁶.

5. Do I have to agree to be the Appropriate Adult?

It is your decision and the police cannot force you. Think about whether it is in the best interests of the detained person. For children, it is usual for a parent to be the AA but sometimes they are unwilling, unable or unavailable. Even if they are not the AA, parents must still be told by police that the child has been arrested, why and where they are being held⁷. A person cannot be the AA if they: -

- are employed by the police in any capacity⁸
- are a suspect, victim, witness or otherwise involved in the investigation⁹
- have received admissions prior to acting as the AA¹⁰
- are a solicitor or independent custody visitor at the police station in that capacity¹¹
- are a parent who is estranged from the child and they prefer to have someone else¹²
- are a person suspected of involvement in terrorism¹³
- are the principal of a child's educational establishment (except in some circumstances).¹⁴

6. When will I be needed?

The AA has a role during a voluntary interview (see section 9) and throughout a person's time in custody, including when police: -

- give or seek any information or are required to seek consent to carry out a procedure¹⁵
- advise the person of their legal rights & entitlements¹⁶
- caution the person¹⁷
- conduct interviews or ask the person to sign a statement¹⁸
- carry out ID procedures such as fingerprinting, photographs and identity parades¹⁹
- carry out Class A drug testing or take samples such as DNA swabs²⁰
- conduct strip searches or intimate (body cavity) searches²¹
- require x-ray or ultrasound scans (this will be done at a medical premises)²²
- review whether detention needs to be continued or extended²³
- carry out a 'disposal' after deciding whether the person will be charged²⁴
- carry out actions in relation to Youth Cautions and Youth Conditional Cautions²⁵.

7. How long will it take?

This depends on the seriousness of the case. It will often range from about 3 to 5 hours but can take several days in rare circumstances. Depending on the circumstances, the needs of the detained person and the investigation, you may not need to be present at the police station at all times.

Some procedures can be done without an AA in some circumstances. If you are not there when the person is 'booked in' to custody, the police must repeat the rights & entitlements in your presence²⁶. Strip searches can take place without you if there is an urgent risk of serious harm²⁷. There may be long gaps while decisions or further investigations are being made. The police must make reasonable efforts to give you sufficient notice of review and charging decisions so you can be there in person or by phone. If you can't attend for charging, they should bail the person to return when you can.²⁸

8. What can I do as the Appropriate Adult?

You are entitled to be present during any procedure requiring information to be given by or sought from the detained person²⁹. In addition, the AA's has further rights including: -

Accessing information

You must be told why the person is being detained. You are allowed to view the whole of the detainee's custody record as soon as possible, at any time on request (within reason) and for up to 12 months after release³⁰. Check that the police have progressed the case in good time by looking for any unexplained time gaps. Note down details from the custody record and check them with the detained person. This might include the times they were arrested and booked in, when they last rested or had refreshments. While in custody, the police must also give you access to their risk assessment if it contains information needed to keep yourself safe³¹.

Getting legal advice

Free legal advice is one of a detained person's most important rights. Children and vulnerable adults sometimes decline legal advice due to misunderstanding and fear. AAs must never give legal advice. If you think it is in their best interest, you can get a solicitor for a detained person even if they have declined it. The police must act as if the detained person had made the request³². Deal with this as soon as possible to minimise delays. If you have not yet arrived at the station, you can do this over the phone. You cannot force a detained person to see the solicitor once they arrive at the station³³, so you should talk to them and ease any concerns they have. Explain that: -

- It will not cause a big delay and will not cost anything
- Even a minor criminal record can have a big impact on their life in the long term
- Taking legal advice is everyone's right and does not make them look guilty
- If they don't have their own solicitor, the duty solicitor is totally independent of the police
- They have a right to face to face legal advice, even for minor matters³⁴
- Unlike AAs, solicitors have 'legal privilege'. This means they can tell them anything and it will stay private and confidential.

Talking privately

You are allowed to talk with the detained person privately. This enables you to ensure that they understand their rights and what is happening. You should also check their general welfare, including when they last ate and drank and whether they need the toilet. If you don't know them, find out more about how best to support them. Rather than doing this in a locked or unlocked cell, ask the police if an interview room is available. This will provide a better atmosphere.

You do not have 'legal privilege' so a court may call you as a witness, though this is very rare³⁵. However, AAs are under a common law 'duty of confidentiality'. This means you must not pass on what they say to the police or anyone else unless there are exceptional circumstances, such as a risk of serious harm to them or someone else. Before the detained person says anything about the offence, explain that they should only do this with a solicitor. You, the solicitor and the detained person, should discuss whether it is in their best interest for you to attend their legal consultations.

Intervening in interviews

You have the right to observe whether the interview is being conducted fairly and properly and to tell the police if you think it is not. You can advise the person but you must never give legal advice. You must not speak for the detained person or put words into their mouth but you may ask police to rephrase questions and help them understand the answers. Most police interviews are conducted professionally and you will have a positive impact just by being present. Inappropriate interventions by an AA will not help the detained person. However, you should intervene in an interview if:-

- police have not properly explained the equipment being used, the reason for arrest, or the purpose of the interview, at the start of the interview
- police have not given a reminder of the right to legal advice and the right to consult the Appropriate Adult in private
- police have not repeated the caution and ensured that the detained person understands it (check this by asking them to explain it back to you in their own words)³⁶
- police are inappropriately familiar towards the detained person
- police interrupt repeatedly, use raised voices or foul language, or stand
- police use questions are repetitive, too fast, inappropriate or leading
- police change the questioning to relate to a different matter to the one explained at the start
- the detained person does not understand the questions, is confused, distressed, agitated, upset, angry or abusive
- you or the police appear to be confused.

You should request a break in an interview if: -

- approximately two hours have passed since the last break³⁷
- it is a recognised meal time taking into account when the detained person last ate³⁸
- you want to talk to the police, solicitor or detained person in private
- the solicitor arrives at the station or you or the detained person want legal advice³⁹
- anything happens which causes you concern.

Consider making comments at the start or end of the interview recording if you:-

- are concerned about something and you have been unable to resolve it before the interview
- think the police have not followed the correct procedures
- think the person cannot cope with an interview, either psychologically or physically
- think the recording will not be able to capture something, such as an oppressive atmosphere

You do not have to sign that an interview record or statement is accurate if you do not agree⁴⁰.

9. What if the person has not been arrested before the interview?

The police may ask to interview someone about an offence without arresting them. This does not mean the matter is not serious or the person will not be charged. If a person agrees, it will normally take place at a police station but can happen elsewhere. The police must still apply the rules in the PACE Codes of Practice and the person has the same rights and entitlements. The role of the AA is the same. All references to 'detained person', also apply to people interviewed voluntarily⁴¹.

10. How do I know what the police are supposed to do?

The police's powers are defined in the Police and Criminal Evidence Act 1984 (PACE). The rules they have to follow are detailed in the eight PACE Codes of Practice, which are lettered A to H.

The police have to let you and the detained person read them but you cannot unreasonably delay the investigation by reading them⁴². Code C (detention, treatment and questioning of suspects in police custody) is the most important. Codes D (identification procedures), E and F (audio and video recording of interviews) are also relevant. If it is a terrorism case, you will need to read Code H.

The Custody Officer is not involved in the investigation. They must ensure the investigation and treatment of the detained person are fair⁴³. If you have questions about PACE, you can ask the Custody Officer or the detained person's solicitor if available.

11. What are the rights of the detained person?

A detained person has rights and entitlements. The police must explain them and provide a written notice⁴⁴. An 'Easy Read' version is available for people who have difficulty with complex written information⁴⁵. AAs may find this version useful when explaining rights and entitlements to the detained person. Ask the Custody Officer for these documents as soon as possible.

Rights include having someone informed of their arrest, free legal advice and looking at the Codes of Practice. Rights can be used at any time but some may be delayed in exceptional circumstances⁴⁶. Entitlements include reasonable standards of physical comfort, adequate food and drink, access to toilet and washing facilities, clothing, medical attention, and exercise where possible⁴⁷.

12. Can I give consent?

Some procedures always require consent and some only in certain circumstances. The PACE Codes specify when consent is needed. An AA must be present when consent is required. For children under 14, only parental consent is required. For 14 to 16 year olds both child and a parent must consent⁴⁸. 17 year olds and adults give consent on their own. AAs (who are not parents) never give consent. If you feel a vulnerable adult may not have the capacity to consent, inform the Custody Officer.

13. For how long can a person be detained?

A person may usually be detained for up to 24 hours without charge, but only if it is necessary⁴⁹. Inform the Custody Officer if you think the justification for detention no longer applies. A review officer (at least Inspector rank) must review the detention after 6 hours (then a further 9, and a further 9 hours). The AA has the right to make representations to them. In the most serious cases, longer detention may be authorised by a police Superintendent or a court⁵⁰. The Appropriate Adult has the right to make representations and should ensure the detained person gets legal advice.

14. What if the person is unwell?

If you have concerns about a detained person's health you should inform the Custody Officer. A doctor may assess the person's fitness to be detained or interviewed. Liaison and diversion services may be available to assess mental health and other mental vulnerabilities and provide referrals.

15. What happens at the end of the process?

Decision to charge

If the police do not think that there is sufficient evidence against a person, they will be released and the police will take 'No Further Action' (NFA). If the police need to carry out further investigations they may bail a person to return at a later date. Once the police have enough information they will decide whether to charge⁵¹. Some offences are passed to the Crown Prosecution Service (CPS) and the person may be released on bail (if suitable) awaiting their decision. At this stage the police cannot detain the person to wait for an AA. However, they should give the AA sufficient notice to be present when the person is told the decision and when any charge or other 'disposal' is delivered⁵².

Out of court disposals

In some less serious cases an out of court disposal may be used instead of charging (see table overleaf). These are applied by police. There is no charge, no court hearing and no criminal conviction. This does not mean they are not serious. They are added to a local police record or the Police National Computer (PNC). They may be disclosed (e.g. to employers) through a Disclosure & Barring Service (DBS) criminal record check, with significant impact on a person's life. Some require the person's consent and/or their admission of guilt. Children and vulnerable people sometimes accept out of court disposals for short term gains (e.g. to gain release, fear of court). Ensure the person understands the disposal and its significance. Legal advice can be taken now, even if it was not previously requested.

Charged and bailed

If the person is charged they will be given a charge sheet which shows the details. They will usually be released on bail and must attend court at a future date. Bail is a legal right and no money is required to get released. If the police apply conditional bail the person will also have to follow certain rules and restrictions during that time. This might include living at a particular address, not contacting certain people or regularly reporting to a police station.

Children are usually only charged or referred to the CPS if an out-of-court disposal is inappropriate because they have already received one, the offence is serious or they have not admitted guilt.

Charged and detained

The police may refuse bail if certain criteria are met⁵³. This means the person will be detained but must be taken to the next available court. Criteria include; believing the person will carry out further offending; cause injury, loss or damage; interfere with the investigation; not turn up to court; or that it is necessary for their own protection. Ask the Custody Officer, as soon as you can, whether they have any concerns about granting bail. Given time, it may be possible to resolve their concerns.

If refused bail, children aged 10 to 16 years old must be transferred out of police cells to local authority accommodation. There are some very limited exceptions to this requirement and legal advice may be required. If bail might be refused for a child, you should request help from the Youth Offending Team (YOT). They may be able to resolve the concerns and prevent the need for detention.

16. How can I find out more information?

- Ask the Custody Officer or solicitor
- Visit www.appropriateadult.org.uk for information on Appropriate Adults
- Visit hub.unlock.org.uk for more on criminal records, disclosure and filtering.

Out of court disposals

Disposal	What does it mean for the detained person?	Consent /Admission	Will it be disclosed on a (Basic, Standard or Enhanced) criminal record check?
No further action (NFA):	The police don't intend to take any further action in the case.	N/A	Recorded locally only. Disclosed very rarely, only on Enhanced DBS check and only if deemed relevant by police.
Community resolution	They agree to make amends to the victim.	Yes / Yes	Recorded locally only. Disclosed very rarely, only on Enhanced DBS check and only if deemed relevant by police.
Warning (cannabis, khat)	Verbal warning. Future possession likely to result in a PND. 18+ only.	No / Yes	Recorded locally only. Disclosed very rarely, only on Enhanced DBS check and only if deemed relevant by police.
Warning (harassment)	Given a letter advising them that if they do the same thing again	No / No	Recorded locally only. Disclosed very rarely, only on Enhanced DBS check and only if deemed relevant by police.
Penalty Notice for Disorder	Sign penalty notice. Pay £60 or £90 or request trial within 21 days. 18+.	No / No	Recorded locally only. Disclosed very rarely, only on Enhanced DBS check and only if deemed relevant by police.
Youth Caution	Enough evidence to charge but not in public interest. 10-17 year olds	No / Yes	Recorded on PNC. Never disclosed on Basic. Disclosed on Standard/Enhanced unless eligible for filtering.
Simple Caution	Enough evidence to charge but not in the public interest. 18+ only.	Yes / Yes	Recorded on PNC. Never disclosed on Basic. Disclosed on Standard/Enhanced unless eligible for filtering.
Youth Conditional Caution	Must comply with conditions or will be charged with original offence. Referral to YOT. 10-17 year olds.	Yes / Yes	Recorded on PNC. Disclosed on Basic for 3 months minimum.* Disclosed on Standard/Enhanced unless eligible for filtering.
Conditional Caution	Must comply with conditions or be charged with original offence. 18+	Yes / Yes	Recorded on PNC. Disclosed on Basic for 3 months minimum.* Disclosed on Standard/Enhanced unless eligible for filtering.

*May be longer if the person has other unspent convictions under the Rehabilitation of Offenders Act 1974

References

(from PACE Codes)

- ¹ C 1.5, 1.5A / H 1.11, 1.11A
² C 1.4, C 1G, Anx E: 1 / H 1.10, 1G, Anx E: 1
³ C 11.17 / Home Office AA Guidance (2004)
⁴ C 1.7(a) / H 1.13(a)

- ⁵ Crime & Disorder Act 1998 s.38(4)(a)
⁶ C 1.7(b) / H 1.13(b)
⁷ C 3.13, 3C, Anx B:1
⁸ C 1.7(a)(iii) and (b)(iii) / H 1.13(a)(iii)
⁹ C 1B / H 1B
¹⁰ C 1B, 1C / H 1B, 1C
¹¹ C 1F / H 1F
¹² C 1B / H 1B

- ¹³ H 1B
¹⁴ C 11.16
¹⁵ Home Office AA Guidance (2004)
¹⁶ C 3.17, 3.18, Anx E:3 / H 3.18, 3.19, Anx E:3
¹⁷ C 10.12, Anx E:7 / H 10.11, Anx E:6
¹⁸ C 11.15, Anx E: 8, E2, E3 / H 11.9

- ¹⁹ D 2.14 and 2.15
²⁰ C 17.7 / PACE Act s.63B(5B)
²¹ C 1M(d)(i), Anx A: 2A, 2B, 5, 11(c), Anx E: 12 / H 1P(d)(i), Anx A: 3 and 6,12(c), Anx E: 10
²² C Anx K: 2 and 3
²³ C 1M(d)(i), 15.2A(c), 15.3(c)

- ²⁴ C 16.1, Anx E: 11 / H Anx E: 9
²⁵ Crime & Disorder Act 1998 s.66ZA(2), s.66B(5) / Code of Practice for Youth Conditional Cautions 4.1.4, 16.1, 16.3
²⁶ C 3.17

- ²⁷ C Anx A: 11(c), Anx E: 12 / H Anx A: 12(c), Anx E: 10
²⁸ C 15.3, 15CA, 16C / H 15.1
²⁹ Home Office AA Guidance (2004)
³⁰ C 2.4, 2.4A, 2.5 / H 2.5, 2.6 and 2.7
³¹ C 3.8A
³² C 3.19

- ³³ C 6.5A
³⁴ C 6B
³⁵ C 1E
³⁶ C 10.1
³⁷ C 12.8
³⁸ C 12.8
³⁹ C 6.6(d)(v)
⁴⁰ C 11.12
⁴¹ C 1.10
⁴² C 3B
⁴³ C 1.15

- ⁴⁴ C 3.2
⁴⁵ C 3.3.A
⁴⁶ C Anx B
⁴⁷ C 3.2(b)(ii)
⁴⁸ C 2B
⁴⁹ PACE Act s.41-s.43
⁵⁰ C 15.2A
⁵¹ C 16.1
⁵² C 16C
⁵³ PACE s.38(1)