



RESPONSE TO THE DOCUMENT “ PACE Review. Government proposals in response to the Review of the Police and Criminal Evidence Act 1984, Policing Powers and Protection Unit, Home Office August 2008”

The Emergency Social Services Association (ESSA) is a national association formed in 1997 and which represents 110 local Authorities Emergency Duty Teams and Out of Hour Teams throughout the UK. The purpose of the Association is to bring together its members in order to promote the significance of Out Of Hours Social work services and further the Associations objectives. The objectives which are of relevance to this submission are

- To promote high standards of Out-of-Hours Social Work Services.
- To influence legislation and policy related to Out of Hours Social Work issues at local, regional and national level

Our comments relate entirely to Chapter 13 “Community Engagement in Custody”. Many of our members provide Appropriate Adults to local Police forces Out Of Hours. This can be for young people, where we are acting on behalf of the Youth Offending Teams in our respective area, or for adults where we recognise that (though there is no statutory responsibility) there is a need to ensure the protection and legal rights of vulnerable arrested people. There are many variations on this theme, and we are aware of some areas where there appears to be effectively no independent service for adults. Where out of hours Social Work services do provide a service these normally seem to work reasonably well, particularly where there are local agreements in place. There are instances when, for both our workers and Police, differing priorities can impact on efficient use of staff time and delays occur but these tend to be exceptions.

Where such services are in place the detained person, be they adult or a juvenile, are getting the time of an experienced professional who will be used to dealing with a range of people in crisis. They are likely for example to have acted many times as an Approved Mental Health Professional under the Mental Health Act, and to have dealt with young people in all manners of distress. They will also be independent of the Police, and where necessary able to assist in issues arising from the particular needs of the person when they leave the Police Station. Such services should be recognised as offering a high standard of response, though there is nothing in the review to indicate that this has been considered.

The vast majority of young people are currently interviewed and processed with a family member or friend acting as the Appropriate Adult. The proposals in para 13.5 appear to suggest that this should cease, with only trained staff undertaking this role. Information from YOT colleagues and Custody Sergeants show that currently approximately 20% of arrested young people require an Appropriate Adult from outside the family. There may be problems elsewhere of which we are not aware, but we must question the proportionality of a proposal which would mean a fivefold increase in the use of Appropriate Adults from outside the family. There is no evidence in the review that this increase has been appreciated, anticipated or budgeted for.

In addition the assumption that someone else is always preferable to a parent to act as Appropriate Adult and consequent diminution of parental responsibility appears to be contrary to the general direction that many of us, (including we assumed, Government), are trying to achieve. There may well be some uncooperative or difficult parents that we all have to deal with, but the negative consequences of this proposal would appear to far outweigh any benefits, and risk further alienating parents from their children. As experienced practitioners we recognise that there are instances where Appropriate Adults from outside the family are of course necessary, but from our perspective the blanket presumption that all cases require a trained Appropriate Adult is wrong and not justifiable.

Many of our members question the use of appropriate adult agencies. They report that such agencies have not been successful in retaining "volunteers". An unintended consequence of the proposals could be that having been set up to serve this demand such agencies collapse and Local Authorities who will have had no additional resources will be expected to plug this large gap. This risks a serious crisis in the management of the process.

We are concerned about the potential independence of Appropriate Adults who are constantly in the Police Station, and fear that the role could change and move away from ensuring the welfare and well-being of the person being interviewed. Also we recognise the pressure on Legal Aid funds elsewhere and question whether the proposal that all young people and vulnerable adults have a trained Appropriate Adult could evolve into an attempt to justify the withdrawal of the automatic right to a free solicitor.

There has clearly been much work done looking at methods of improving the system that would benefit young and vulnerable people in custody. This we applaud. As an organisation we campaign for improved Out Of Hours Services generally and recognise that where there are shortfalls these should be addressed. It appears to us that the answer lies in encouraging sound local solutions. We recognise that there are some existing Appropriate Adult Agencies offering a good service. We suspect that these may work best in Inner Cities where the critical mass of population density/availability of volunteers/difficulties for statutory agencies leads towards a favourable climate for their establishment. Where there is adequate training, support, access to advice and recognition of professional boundaries these systems

certainly have their place. To extrapolate this to being a solution suitable for every community and designated Police Station in Britain is we believe flawed and unnecessary. The evidence is that less densely populated areas often struggle to have sufficient demand to justify the cost of training and supporting volunteers, and that volunteers who are not used lose interest. Where resources allow, the use of paid and experienced staff from YOTs and Local Authorities provide a highly suitable option if demand remains at the current level.

We therefore recommend the encouragement of local solutions with the YOS and Local Authorities being key players, and agreed protocols with the Police including provision of the service Out of Hours. There are doubtless good examples of these agreements and protocols already in existence. We would caution against giving the Police a statutory role in setting up Appropriate Adult Services, particularly where this is an Agency, because any formal connection could effect the independence (or perceived independence) of the individuals providing the service.

Taking a national view we recognise that Appropriate Adult services for Adults are absent or unreliable in some areas and where this is the case there is a need for urgent attention.

In addition to the above thematic responses we would wish to contribute more specifically to the following matters in the Review.

Para 13.5, bullet 3 “Extend the role of the Appropriate Adult to act as a facilitator between the police and the parent, guardian etc”

We are disturbed that this does not mention the solicitor, who also has a vital role to play in this regard. The inference that the Appropriate Adult can act as a legal advisor is a route we would strongly oppose, and if the suggestion is that the Appropriate Adult takes on a social work role why is the Review elsewhere promoting volunteers? Social workers from Youth Offending Teams, Adult and Mental Health Teams, and Emergency Duty Teams are doing this work every day and night. They are also well used to dealing with solicitors, are aware of professional boundaries and have within their employment access to support and advice from colleagues.

Para 13.5, bullet 8 “extend the access to appropriate adults... to those under 18”

We recognise that the current situation is an anomaly and support this proposal. Again there would need to be some recognition that where demand is increased it needs to be matched with funding.

Para 13.8 “Comments invited on whether Appropriate Adults should be present during voluntary interviews”.

We recognise the need for additional support to some young people and vulnerable adults in this respect. Where a Looked After Child or dependent adult is interviewed as a victim or witness it would be normal for a social worker to attend or arrange for some support during the interview. These are often situations outlined in “Achieving Best Evidence in Criminal

Proceedings". This proposal changes the Appropriate Adults role. There are subtle differences between a formal and informal interview and we believe that to carry out this role you would need a professional worker. This would again increase markedly the number of requests for appropriate adults. The person is not entitled to legal advice in their voluntary interview therefore the person may turn inappropriately to the Appropriate Adult for legal advice. We therefore question the rationale behind this proposal.

Conclusion

ESSA welcomes the opportunity to contribute to the debate on this important issue. We particularly applaud the recognition of the Out of Hours dimension that is not always appreciated in similar consultation exercises. As the professional grouping for Out of Hours social work teams we have extensive experience of providing Appropriate Adult services for both young people and adults in widely different circumstances across the UK. Other members also have experience with working with Agencies providing this service and can comment on what appears to work well. We trust that our comments are of value and would welcome further discussion and consultation.

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