

Review of Appropriate Adult provision for vulnerable adults

Purpose

For discussion and decision.

Summary

A recent review commissioned by the Home Office from the National Appropriate Adult Network (NAAN) raised concerns with the availability of Appropriate Adults for adults who are mentally vulnerable, in particular, how provision is determined, administered, directed and funded.

How Appropriate Adult services are provided varies across England. Adult Social Care is, in some places, a supplier of Appropriate Adults, mainly qualified social workers. A number of councils also commission Appropriate Adult services from independent providers. The funding generally comes from the Adult Social Care budget though provision is not a statutory duty.

The Home Office are making recommendations for the future supply of Appropriate Adults, and this paper seeks a decision from members on how the LGA will make representation on this issue.

Recommendation

That the Board reviews the seven future options for the provision of Appropriate Adults and decides on which option the LGA will be supporting *or* the Board agrees and proposes an alternative option.

Action

LGA officers will make representation to the Home Office in line with our agreed position.

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Background

1. The Appropriate Adult (AA) role was created alongside the Police and Criminal Evidence Act (PACE) 1984. An AA is responsible for protecting or safeguarding the rights and welfare of a child or 'mentally vulnerable' adult who is either arrested, detained by police or is interviewed under caution voluntarily.
2. People can be vulnerable because of a learning disability, mental health, autism or other issues. NAAN found that 11- 22 per cent of people detained are deemed vulnerable, though police data suggests only 3 per cent of people detained receive the support of an AA. This suggests that as many as 235,000 police detentions and interviews of mentally vulnerable adults are being conducted without an AA each year. Interestingly, police are around five times more likely to identify vulnerability and secure an appropriate adult in areas where there are organised schemes (Source: NAAN). This could suggest that police are motivated by the availability and awareness of the AA scheme to request AA support.
3. AA's are independent - they do not work for the police. An AA can be a parent, another family member, a social or care worker or a volunteer. The role of an AA is to:
 - Support, advise and assist the person while in detention, including during any interview;
 - To ensure that the person understands their rights and that the AA has a role in protecting their rights;
 - To observe whether the police are acting properly, fairly and with respect for the rights of the person and to tell them if they are not; and
 - To assist with communication between the person and the police.
4. There is a legal duty for local authorities to provide AA provision for children and young people through their Youth Offending Teams. However, **there is no legal duty on any agency to provide an AA for mentally vulnerable adults. However the police have a legal duty to request one.**
5. AA's should be called by the Custody Officer for any person who seems vulnerable. Though this varies in practice - Police officers are often faced with a difficult judgement call when detainees refuse the assistance of an AA. Police officers have to weigh up the PACE requirements with the understanding that a detainee cannot be forced to use the AA service.
6. AA's are different from other supporters a person might have, such as solicitor, interpreter or mental health worker. They have specific rights and responsibilities that are largely detailed in the PACE Codes of Practice.
7. Although there is no specific legislative requirement for **local authorities to take the lead on AA provision historically many local authorities have always viewed this as part of their overall 'care responsibility'**. Therefore, in many local authorities AA services exist that are provided in a variety of ways.

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Issues

8. The Home Office is reviewing the supply of AA's. As Adult Social Care currently provide Social Workers to act as AA's or commission the majority of AA schemes (see Appendix A), even though it is not a statutory duty, any decision or direction from the Home Office Working Group on this issue will have an impact on councils.
9. Councils are in the difficult position of seeing the value in providing an AA for a vulnerable person, in terms of their interaction with other council services and council oversight, but also seeing their budgets reduce and their ability to provide non-statutory services dwindle.
10. A Home Office working group was established following the publication of the NAAN research report ['There to Help'](#) in 2015. The focus of this research was to ensure the provision of AA's for mentally vulnerable adults detained or interviewed by police. The NAAN research looked at provision in 174 local authorities in England and Wales and 43 police forces. They found that there is a varied provision of AA's across the country.
11. The main finding of the NAAN research was that there are significant shortcomings in current AA provision for mentally vulnerable adult suspects, particularly in terms of:
 - 11.1 Inadequate police practices with respect to identification of suspects' vulnerabilities and the need for AAs, and the recording of relevant data;
 - 11.2 Limited availability of AAs; and
 - 11.3 Variable quality of AAs.
12. The research found that many vulnerable adults do not receive the support of an AA, or receive it only for part of the custody process. The research raised concerns that this undermines their welfare, inhibits the exercise of their legal rights, risks miscarriages of justice and lengthens custody times potentially increasing the risk of self-harm.
13. It is not clear what the **costs to local authorities**, and adult social care in particular, are of providing a dedicated AA service. NAAN estimated that the annual cost of ensuring full provision of trained AA's from commissioned AA schemes (**not** provided directly by Social Workers) across 174 principal authorities across England and Wales, is £19.5 million. However, local authority areas that use social workers to deliver AA services were **not** been picked up by the NAAN survey. NAAN calculated that the unit costs of a Social Worker being used as an AA would be considerably more than a commissioned provider - but where this happens these costs are likely to be born within the existing service costs.
14. In response to the evidence presented by NAAN and concerns over shortcoming in provision of AAs, the Home Office commissioned two pieces of research in 2016 – both are yet to be published. One paper looked at AA coverage, delivery models and emerging themes. This showed a small number of local authorities and police force areas appear to have no AA provision at all. However, this research was desktop and further information is needed to identify whether this is the case. Further research may be useful to get a clearer picture of provision.

15. A further unpublished research paper in 2016 from the University of Bristol on 'The role of Adult Social Care in the provision of AA for vulnerable adults in police custody' showed that adult social services **had very limited capacity to play a direct delivery role in AA provision.**

Options for consideration

16. In the context of current pressures on Adult Social Care and the LGA's call for additional funding, **the Board is asked to agree an LGA position on the future supply of Appropriate Adults.** The options under consideration by the Home Office Working Group on Appropriate Adults are:
- 16.1 **No change to current arrangements.** AA provision is not made statutory and that any model of provision is delivered based on local authority priorities and decision. Many local authorities commission local voluntary organisations to deliver the service, but not all do. No change would mean that issues of variability of service provision would continue and with current pressures on adult social care are likely to reduce in availability.
- 16.2 **Local authorities are given a new statutory duty to provide the AA service directly through adult social care.** This presents an opportunity to clarify and manage the provision of the AA service. However this commitment would present a real risk of capacity for adult social care teams to deliver the service effectively. The full demand of AA support is not known but likely to be considerable. Social Workers already have significant service demand pressures and this would add to that. Costs of direct provision will need to be determined via a new burden assessment.
- 16.3 **Local authorities are committed via statute to commission AA services from a third party provider.** This would present an opportunity for councils to shape and have more understanding of the local AA needs. The risks to this approach are that costs will need to be determined via a new burden assessment and new local delivery partners would need to be identified in some areas.
- 16.4 **Local authorities commit to an informal agreement, similar to the mental health concordat, to provide AA services for mentally vulnerable adults.** This approach would provide more of a formal framework for local authorities to operate within. The risk would that provision would need to be funded by existing budgets. To note, the Home Office are currently looking at developing a toolkit in best practice on delivery of AA schemes. They will ask for input from local government.
- 16.5 **The Home Office commissions a third party provider, or a number of third sector providers.** There may be a divergence of opinion between the Home Office, the third sector and councils on the purpose of an AA. The Home Office's main concern has been the robustness of a court case, whilst social services have focussed on issues around protection of vulnerable people.

- 16.6 **An alternative mechanism to the provision of Appropriate Adults is developed.**
- 16.7 **Police and Crime Commissioners (PCC) commission AA services from third party provider.** A number of police forces already fund AA schemes and this is highlighted by the diagram in Appendix A.
17. The current position for providing AAs is unsatisfactory. Local authorities are keen to ensure that the interests of vulnerable adults are protected, but budgetary pressures mean that different areas take different decisions on what contribution they can make to funding AA services, resulting in variations in the level of provision. At the same time there is a question about whether local authorities are the right bodies to be providing a service which is fundamentally about the integrity and smooth operation of the criminal justice system. Placing a statutory duty or requirement on councils to either commission the service directly or through other organisations will have an impact on adult social care budgets. The LGA's position is also to resist new statutory duties being imposed on councils unless there is a good reason for one being introduced. As the core of the AA role is to protect the rights of vulnerable adults while they are being interviewed as part of a police investigation it might be more appropriate for the Home Office or PCCs to fund AA services.
18. **On balance the Board is asked to consider option 16.7 as the LGA's preferred way of providing AA services going forward.** Although the option may raise an issue of perceived independence of the AA, the role of Appropriate Adult is fundamentally about ensuring the integrity of the criminal justice system, and it would fit clearly under PCC responsibilities.
19. **The Board is asked to decide which of the above options the LGA should support. If the Board is not minded to support any of the options outlined in paragraph 16, they are asked to indicate a preferred alternative position.**

Next Steps

20. Members are asked to discuss and agree the LGA position on the future supply of Appropriate Adults.

Implications for Wales

21. The briefing reflects findings from the National Appropriate Adult Network report and unpublished reports that apply to both England and Wales.

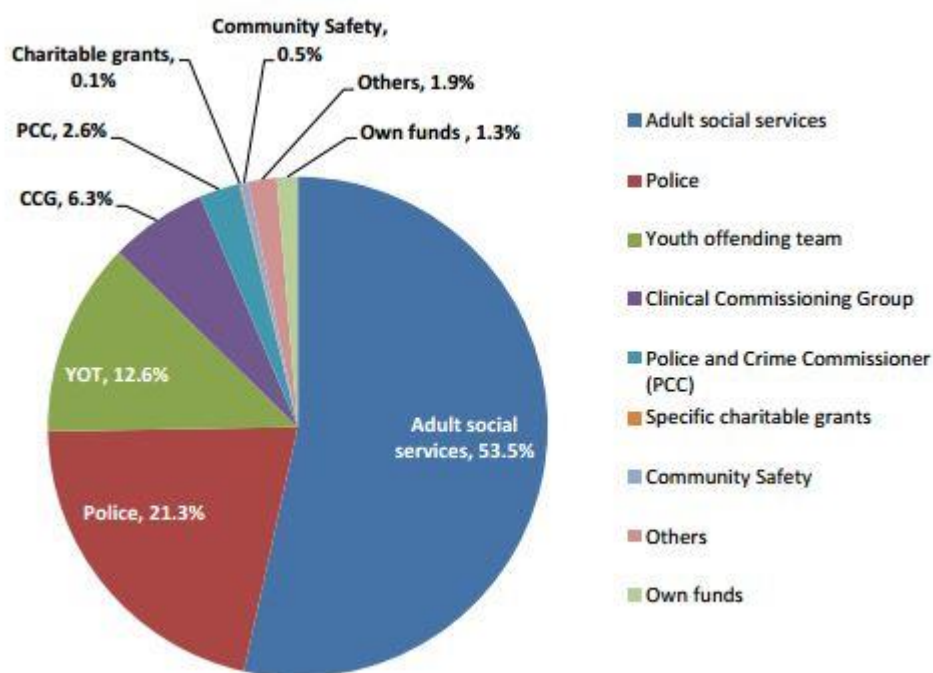
Financial Implications

22. There are no implications for the LGA arising from this report. However if responsibility is given to councils for providing AAs there will need to be a new burden assessment if it is made a statutory duty for local authorities to provide Appropriate Adults for mentally vulnerable adults.

Appendix A

Diagram of Funding of AA Schemes

Funding. Adult social services remain the largest funder of provision but in many areas police have been forced to fund provision, raising questions around independence. The diagram below shows a breakdown of known AA funding arrangements.



[Source: [There to help: Ensuring provision of appropriate adults for mentally vulnerable adults detained or interviewed by police](#). The Home Secretary's Commission on Appropriate Adults. NAAN & ICPR (2015)]