

Cumbria Youth Offending Service (CYOS) and The Appropriate Adult Service (TAAS) Working Agreement

Introduction

The purpose of this agreement is to provide clarity to the roles and responsibilities of the CYOS, TAAS and Children's Services in dealing with young people involved in the criminal justice system, who are subject to Police and Criminal Evidence Act (PACE) and require an appropriate adult.

- Appendix 1 details the role of the appropriate adult.
- Appendix 2 Requirements Under PACE Code C for Appropriate Adult

A crucial element of PACE is the expectation that children/young people will not remain in the Police Station any longer than is necessary.

The Appropriate Adult Service (TAAS)

TAAS is a national programme, working with vulnerable adults as well as children and young people. They are able to service all the Police Custody Units within Cumbria and guarantee an average response time of 40 minutes, ensuring that in time of need they are able to respond. The TAAS telephone system is manned 24 hours a day. TAAS operate a 'pay as you go' system, in that the contracts are agreed on a fixed hourly rate whilst in attendance at the Police station.

TAAS will accept all referrals for an Appropriate Adult as outlined in this agreement, for all young people aged less than 18 years. TAAS will take into account gender issues and make every effort to provide a same sex Appropriate Adult for a young person who has been arrested for sexual offences. The role of TAAS within the Police Station is to be proactive, where they offer advice (not legal) to the young person, make sure the interview is conducted fairly and facilitate communication.

Hours of Operation

TAAS will respond to any request to act as an appropriate adult which is taken directly from the Emergency Duty Team (EDT), Cumbria Safeguarding Hub, Cumbria Children's Services (Duty Social Worker). The working hours will be Monday through to Thursday inclusive from 17:00 hrs to 09:00hrs the following morning and Fridays 16:30 through the weekend until to 09:00hrs on the following Monday, 365 days a year. When a bank holiday occurs throughout the year TAAS will respond to requests to act as the appropriate adult throughout the day and night concluding at 09:00hrs on the first working day following the Bank Holiday.

In the event that a referral is made to the CYOS prior to either 16:30 hrs (Friday) or 17:00 hrs (Monday through to Thursday) but the interview will not be conducted till after these times then referral will be made to TAAS. The CYOS will inform the Police that they need to make contact with the EDT to request an appropriate adult. CYOS will also contact the EDT and TAAS to inform them,

providing any relevant information, including details regarding the young person, if they are known to CYOS.

In times of great need or CYOS staff shortages, the CYOS Team Practice Manager (TPM) will contact TAAS directly to request an appropriate adult, during normal office hours. In these circumstances the CYOS will provide relevant information (if known to CYOS) and also undertake Children's Services checks (ICS), in advance of the appropriate adult attending the PACE interview.

Referrals

To comply with PACE it is recognised by all parties to this agreement that it is in the best interests of the child or young person who is detained by the Police to have their rights administered in the presence of an appropriate adult as soon as practicable. This should be independent of the investigation and should not be delayed or coordinated to coincide with attendance of solicitors or investigating officers. Once in attendance then the Appropriate Adult will be available to ensure that the child or young person is interviewed as soon as practicable.

Request made by the Police via the EDT for TAAS to attend PACE interviews at venues other than the Police station will be rejected by TAAS, except in exceptional cases i.e. Hospital, in these cases TAAS will attend.

Prior to making a referral to the EDT the Police will ensure that they have tried all other avenues to secure an Appropriate Adult. TAAS as part of this agreement will not accept referrals for them to attend victim interviews.

Referrals will be accepted by TAAS from the CYOS, EDT and the Police via EDT. TAAS will not accept referrals from any other individual or organisation which requires an appropriate adult, as part of this agreement. As part of this agreement young people are classified as between the ages 10 to 17 years, inclusive.

The Police will make referral to the EDT, for cases which require an Appropriate Adult. In the event that the Police are unable to contact the EDT, then a referral can be made directly to TAAS. In these circumstances the Police will inform TAAS that they are unable to contact the EDT, highlighting the time they attempted to contact EDT. TAAS as part of the monitoring data will provide this information to the YOS for any case that is referred directly from the Police.

Upon receipt of the referral the EDT will then undertake Children's Services checks to see if the child/young person's is known and in what capacity. These checks should identify private law orders, Child Protection Plans, risks, vulnerability and any other pertinent issues highlighted in the child/young person's electronic record. Information identified in the above electronic records may need to be shared with TAAS, along with details relating to the offence for which they have been arrested, Police Station and the name of the Custody Sergeant, prior to their attendance at the Police Station.

Cases in which CYOS has attended as appropriate adult during the day and the Police have postponed further PACE interviews with a view to reconvening after 17:00 hrs (16:30 hrs Friday's) will need to be discussed with the relevant Team Practice Manager (TPM), regarding continuing CYOS attendance. The TPM will have discretion to task the TAAS in responding to further PACE

interviews, securing the attendance of a sufficiently briefed Appropriate Adult to facilitate the processing of the child/young person in accordance with PACE code C without unnecessary delay. In doing so the TPM will take into account the time proposed for further interview, the estimated time the interview may conclude, the nature of the offence, consistency of staff and impact on CYOS core service delivery.

Duty Solicitor Requests

It is the view of CYOS that all young people subject to PACE should have a Duty Solicitor present to provide legal advice and represent the young person.

At point of arrest the Police will endeavour to ascertain if the young person requires an Appropriate Adult, prior to contacting TAAS and agree a time for the Duty Solicitor to attend. In the event the young person refuses to engage with a Duty Solicitor, TAAS on arrival and in the presence of the Police Custody Sergeant will advise the young person that they cannot provide legal advice and strongly recommend a Duty Solicitor, even if this results in a phone conversation with the young person and the Duty Solicitor. TAAS have the right to ask for a Solicitor to attend even if the child has not requested one, however the young person cannot be forced to speak to the Solicitor, but they are more likely to do so if the Solicitor is physically present in the Police Station.

Regardless of the outcome of advising the young person to have a Duty Solicitor, the conversation between the young person, Custody Sergeant and TAAS must be recorded on the custody record. If the young person refuses after the above efforts have been made the interview will then go ahead, without a Duty Solicitor present.

'Looked After Children'

The term 'Looked After Children' (LAC) relates to all young people who are either on a Care Order or accommodated by Children's Services. Young people who are LAC are either placed within a Children's Home or with Foster Carers.

A request will be made by the EDT for all young people looked after where an Appropriate Adult is required outside office hours.

Cumbria Children's Services expects that the carer of a child or young person (Foster placement or Children's Home, whether directly managed by Cumbria County Council or a purchased placement) will act as an Appropriate Adult for all young people 'looked after'. The EDT will ask the Police to make contact with the carer for the young person and ask that the response is recorded.

In the event the Police are unable to locate the carer, or for some reason it is not appropriate for the carer to act as an Appropriate Adult, the EDT will assess the situation and in the event that a carer from Cumbria Children's Services is unable to attend the EDT will make referral to TAAS.

Following PACE interview, where a young person is a 'Looked After Child' or known to Children's Services (identified on ICS at point of referral) the Police will contact the EDT who will update the young person's electronic record on the ICS system.

Transport and Accommodation Issues

When the child or young person has been dealt with for the offences for which they have been detained and an appropriate disposal decision (i.e Charge, Bail, Caution, Restorative Justice, NFA) has been made, the Custody Officer is responsible for an 'pre-release risk assessment'.

As part of this process the issue of transportation of the child or young person back to their address will be considered. The Police have the responsibility to satisfy themselves that the arrangements for transportation meet safeguarding requirements.

Where parents/carers refuse to have a young person home the Police will in the first instance attempt to resolve/facilitate a return home for the young person. In the event the parent/carer continues to refuse to have the young person home the Police will contact the EDT. The EDT will make further direct representation to the parents/carers with a view to the young person returning to their home address or other identified accommodation (subject to satisfactory checks).

TAAS will at no time undertake a home visit in an attempt to resolve/facilitate a return home for the young person.

The Police will contact EDT when issues relating to homelessness are identified. Both homelessness and where parents/carers indicate they are not willing to have the young person home will require a coordinated approach to identifying alternative and suitable accommodation. As a means to reduce the time a young person spends at the Police station the Police will inform EDT at the earliest opportunity, so checks can be made whilst the enquiry is conducted.

Following PACE Interview

On conclusion of the PACE interview the Police will contact parents/carers and inform them of the outcome of the interview. Parents/carers may not be informed of the outcome if they are co-accused. In the event the young person is to be held overnight the Police will inform the parents/carers that the young person will be detained or accommodated through Children's Services.

TAAS will complete the PACE call out paperwork and send to the CYOS Admin secure email address prior to 9am on the first working day. CYOS will record all young people subject to PACE outside of office hours on their electronic information management system (Careworks).

Young People Held Overnight in Police Custody

In the event a young person is to be detained overnight the Police will inform the parent/carer of the young person and EDT.

CYOS on a Monday through to and including Friday (except were these are Public Bank Holidays) will contact the Custody Suites, between 09:00hrs and 09:30hrs to ascertain if there any young people which require Appropriate Adult representation.

Serious Incidents

TAAS will inform the relevant Team Practice Manager (leaving voice message) of any PACE interviews which have been conducted for a serious crime and may attract media attention. Serious cases are likely to be attempted murder/murder, manslaughter, serious violence, rioting, acts of terrorism, arson, serious sexual offences including child sexual exploitation (This is not an exhaustive list). In addition to the voice message TAAS will inform the CYOS via secure email as well as the EDT.

Review of Working Agreement

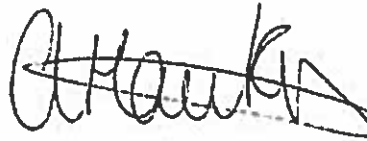
This working agreement sets out the responsibilities of each party in meeting the needs of the young person and the requirements of PACE and will be reviewed by all parties at the four month stage following implementation. Subsequent reviews will take place on a six monthly arrangement. However reviews can be undertaken at any stage where it is identified by any party to this agreement that a review would be beneficial to the agreed process within this working agreement.

Signatures to this Agreement

This agreement is made on the:

Between:

The Appropriate Adult Service (TAAS) Signature:



Title: Director, The Appropriate Adult Service Limited

Cumbria Police Constabulary

Signature:



Title: Head of Criminal Justice

Cumbria Youth Offending Service

Signature:



(CYOS)

Title: Planning, Performance and Partnerships Manager,

Cumbria Youth Offending Service

Children's Services

Signature 

Emergency Duty Team (EDT)

Title: *Interim Service Manager
Safeguarding Hub*

Appendix 1 Role of Appropriate Adult

Relevant guidance on the role of AA can be accessed [here](#)

Role of Appropriate Adult

In relation to children, appropriate adult is defined in primary legislation under section 38(4)(a) of the Crime and Disorder Act 1998, which defines the role as being "to safeguard the interests of children and young persons detained or questioned by police officers." The Police and Criminal Evidence Act 1984 Code C. Paragraph 1.7 states that in relation to a 'juvenile' (aged 10–16) and a person who appears to have attained 17 years, but is not yet 18 years, has an appropriate adult who should be:

- (a) his parent or guardian or, if he is in the care of a local authority or voluntary organisation, a person representing that authority or organisation; or
- (b) a social worker of a local authority; or
- (c) if no person falling within paragraph (a) or (b) is available, any responsible person aged 18 or over who is not a police officer or a person employed by the police;

Local authority Youth Offending Teams (YOTs) have a statutory duty to provide an appropriate adult for all children under the Crime and Disorder Act 1998 s.38(4)(a). This is carried out whenever parents are unavailable, unwilling, or inappropriate to act as appropriate adult. Depending on the local authority, this may be carried out by YOT staff, sessional workers, community volunteers or contracted out to a specialist charity or business.[3]

The role includes:

- (a) To support, advise and assist the detained person, particularly while they are being questioned.

(b) To observe whether the police are acting properly, fairly and with respect for the rights of the detained person. And to tell them if you think they are not.

(c) To assist with communication between the detained person and the police.

(d) To ensure that the detained person understands their rights and that you

have a role in protecting their rights.[4]

Appropriate adults are also required whenever mentally vulnerable adults are detained in custody.[5] However, there is no statutory provision for vulnerable adults [6] and formal schemes are not available in all parts of England and Wales.[3]

Appendix 2 Requirements Under PACE Code C for Appropriate Adult

Appropriate Adults must be present for:-

1. The explanation of rights and entitlements and the grounds for the child's detention (Code C 3.17, 3.18).
2. Police cautions or special warnings (Code C 10.12 and 10.11A)
3. Interviews or requests to provide or sign a written statement under caution or record of interview under Code C, E or F (unless Code C 11.1, 11.18-11.20 apply) (Code C 11.15)
4. identification procedures including witness identification, fingerprints, samples, footwear impressions, photos, evidential searches and examinations, including giving consent (Code D 2.14 and 2.15)
5. Class A drugs testing, including requests for and giving of consent, informing of authority and grounds, warnings and the taking of samples (Code C 17.7, PACE s.65(5A))
6. Intimate searches, including requests for and giving of consent, informing of authority and grounds (unless the child signifies in the AA's presence that they do not wish them there and the AA signs a record) (Code C Annex A: 2A, 2B and 5)
7. strip searches (unless there is a risk of serious harm to the child or others or the child signifies in the AA's presence that they do not wish them there and the AA signs a record) (Code C Annex A paragraph 11(c))
8. X-ray or ultrasound scan, including requests for / giving of consent, informing of authority and grounds and warnings (Code C Annex K 2 and 3)
9. the giving of information about the circumstances under which the child can waive their right to written translations of 'essential documents'; the reminder about their right to legal advice; consent to waive (Code C Annex M: 7(a))
10. Reviews of continued detention or extension of detention beyond 24 hours under PACE s.42(1) (See paras. 17 & 18) (Code C 1M(d)(i), 15.2A(c), 15.3(c))

11. Charging or being informed they may be prosecuted and related action (Code C 16.1, 16.3, 16.4A and 16.6)

Appropriate Adults must be:-

12. Allowed to inspect their custody record during and after detention and to have a copy of it up to 12 months after release (Code C 2.4, 2.4A, 2.5)

13. Allowed to hold a private consultation with the child (Code C 3.18)

14. Allowed to request legal advice on the child's behalf to advise/assist (Code C 3.19, 6.5A, 11.17)

15. Allowed to read and sign the interview record or any written statement taken down during it (Code C 11.12)

16. Given reasonable time to allow them to be present at an interview that is held at their place of education (Code C 11.16)

17. (a) consulted and have their views considered and (b) enabled to support the child in their legal right to make their own representations (if a solicitor is not making them) before any decision to extend the maximum period of detention beyond 24 hours (PACE s.42(1) and s.42(6), Code C 1M(d)(i), 15.2A(c))

18. Given reasonable opportunity to be 'available' to make representations before a decision on continued detention (see para. 30 for further information) (Code C 15.3(c), 15CA)

19. Given the opportunity to have interpreter (appropriate assistance necessary to establish effective communication with that person) if they are a parent or guardian and have a hearing or speech impediment or do not speak or understand English (unless interview is urgent and 11.1, 11.18-11.20 apply) (Code C 13.2A, 13.6)

20. Given a copy of the notice of particulars of charge at the point of charge or when they arrive (Code C 16.3)

21. Allowed access to assess the content of any risk assessment if not to do so would put them at risk (Code C 3.8A)

22. of the same sex as the child for an intimate search, unless; the child requests someone of the opposite sex who is readily available, or they state in the presence of the appropriate adult that they do not want one present (Code C Annex A: 5)

23. Given a copy of, or have brought to their attention, any 3rd party written statement / interview of which the child is informed (after they are charged or informed they may be prosecuted) (Code C 16.4A)

24. Allowed to make representations that a document that is not listed in the table of essential documents is essential and that a translation should be provided (Code C Annex M: 8)



