

**Appropriate Adult
For Young People.
Protocol.**

**London Borough of Tower Hamlets
Youth Offending Team.**

What is an Appropriate Adult?

When a young person (aged 10 up to and including 16 years) or an adult with either learning difficulties or mental illness is arrested and detained at a Police Station for questioning, the Police are obliged by law to ensure that there is an impartial adult present to safeguard the detainee's rights and civil liberties. In a situation where the young person's parents or carers are unable or unwilling to attend, or in the case of an adult with the specified difficulties an Appropriate Adult, i.e. another responsible adult aged 18 or over and who is not employed by the Police, must be in attendance.

The Appropriate Adult's concern is not the guilt or innocence of the detainee but his/her physical and emotional welfare. The Appropriate Adult attends the Police Station, ensures that all procedures are correctly carried out, and is present when the detainee is interviewed, charged and/or fingerprinted.

The Crime and Disorder Act (1998) and National Standards (2000) require that the Youth Offending Team can ensure that Appropriate Adults for young people can be provided to Police Stations in their area, whether or not the young person lives in their area. YOTs must ensure that the staff or YOT accredited Volunteers are trained and supported in their role, and that they are provided with a copy of the PACE Codes of Practice. In relation to adults with learning difficulties or mental illness the appropriate Social Work team will provide the Appropriate Adult. Likewise when an Appropriate Adult is required out of office hours the Emergency Duty Team will attend the Police Station. It is important to note however that the Emergency Duty Team in LBTH has only one worker employed at any given point, as such that Worker will be required to prioritise incoming work accordingly.

The Appropriate Adult as applies to Young People.

The Codes of Practice state that in the case of a juvenile, the Appropriate Adult is:

- 1) his/her parent/carer (or if he/she is in local authority accommodation or subject to a Care Order the Care authority or voluntary organisation;
- 2) a member of the Youth Offending Team; or
- 3) failing either of the above, another responsible adult aged 18 or over who is not a Police Officer or employed by the Police.

“A person, including a parent or guardian of a juvenile should not be an appropriate adult if he/she is suspected of involvement in the offence in question, is the victim, is a witness, is involved in the investigation or has received admissions prior to attending to act as the Appropriate Adult. If the parent of a juvenile is estranged from the juvenile, he/she should not be asked to act as the Appropriate Adult if the juvenile expressly and specifically objects to his/her presence.” (COP. (C) Notes for Guidance 1C).

“The Police have no powers to delay action to inform the Appropriate Adult” (COP. (C) Annex B. Notes for Guidance B1).

If a juvenile is detained, then “the Custody Officer must, as soon as practicable, inform the Appropriate Adult of the grounds for his/her detention and his/her whereabouts, and ask the adult to attend the Police Station to see the young person.” (COP (C) 3.9).

“If a juvenile admits an offence to or in the presence of a Social Worker, other than during the time that the Social Worker is acting as the Appropriate Adult for that juvenile, another Social Worker should be the Appropriate Adult in the interest of fairness”. “A solicitor or lay person who is present at the station in that capacity may not act as the Appropriate Adult.” (COP. (C) Notes 1D and 1F).

The main functions of the Appropriate Adult include:

- 1) Advising the young person.
- 2) Observing that the interview is carried out properly and fairly.
- 3) Facilitating communication with the young person. (COP (C) 11.16).

“The role of the Appropriate Adult is therefore to safeguard the young person’s rights and to minimise the risk of interviews producing unreliable evidence” (COP. (C) Annex Note C1).

ROLE OF APPROPRIATE ADULT.

1. Attend Police Station.
2. Meet Custody Sergeant and Officer in the case.
3. Meet detainee in private.
4. Check conditions of detention
5. Witness "rights" being read.
6. Meet solicitor
7. Be present during interview.
8. Countersign tapes.
9. Witness charge/fingerprints/photographs.
10. Countersign bail/property return.
11. Contact parent/carer with outcome in case of young person.
12. Return Appropriate Adult form to YOT Administration Team.

The Legal Background.

The Police and Criminal Evidence Act 1984 (PACE) and the accompanying Codes of Practice require that there is an impartial adult available to safeguard the rights and civil liberties of the young person, or adult with specified difficulties who is detained and questioned by Police.

The Codes cover:

- A The exercise by Police Officers of Statutory Powers of Stop and Search.
- B The searching of premises by Police Officers and the seizure of property found by Police Officers on persons or premises.
- C The detention and treatment and questioning of persons by Police Officers.
- D The identification of persons by Police Officers.

There is also a Code of Practice covering the tape recording by Police Officers of their interviews with suspects, which came into force on 29th July 1988.

The Codes advise the Police on how they should exercise their powers, but unlike PACE itself, do not have the force of the law. If the Police breach a provision of the codes when they question or search an individual, a court may still decide to accept the evidence they obtain, but an Officer who fails to follow the codes could be disciplined under internal Police procedures.

The Codes of Practice must be readily available at all Police Stations for consultation by Police Officers, detained persons and members of the public.

Code C is the Code relevant to the interviewing and questioning by Police Officers, and covers the safeguards included in relation to "vulnerable persons" such as juveniles or those with a mental illness or learning disability. It defines who the Appropriate Adult must/must not be and describes the Appropriate Adult's role, although not in any great detail.

Appropriate Adult Process.

Step 1 (On receiving request for Appropriate Adult)

- Whilst speaking on the telephone to the Officer requesting the Appropriate Adult complete front page of the Appropriate Adult Form (see Appendix A).
- Confirm that the detainee has requested a Solicitor and time of his/her arrival at Station. The Appropriate Adult should only attend when the Solicitor is present.
- If detainee has not requested a Solicitor request that one is contacted and asked to attend the Police Station to represent the detainee. A Solicitor should be present for all interviews with young people.

“ If, having been informed of the right to legal advice under paragraph 3.11 above, either the Appropriate Adult or the person detained wishes to seek legal advice to be taken, then the provision of section 6 of this Code apply”. (COP (C) 3.13).

- Check whether the young person requires medical attention. If they do request that the Custody Sergeant contact the Forensic Medical Examiner (FME) or young person's own GP.
- Ensure young person's detention has been reviewed if appropriate. The Police are obliged to determine whether there is still a need for detention (PACE S.40, 41 and 42 and COP (C) 15). An Inspector must carry out the reviews at the following time intervals;
 - 1) 6 hours after arrival at the Police Station.
 - 2) 9 hours later.
 - 3) 9 hours later again.

At this time the individual will have been in custody for 24 hours. The individual must not be detained without charge after 24 hours and a Superintendent must conduct the review. The Superintendent can only authorise continued detention under specific circumstances. After 36 hours, if the young person is still in detention they must be placed before a Magistrates Court. If at any time, the reason for detention ceases to exist, or there is not enough evidence to charge the young person must be released.
- Agree time to attend Police Station when both Police and the Solicitor are ready for the interview process to begin.

TARGET: If Step 1 is in place an Appropriate Adult will be provided within 45 minutes. However in the case of EDT AA requests will be prioritised according to the demands being made on the service at the time. Wherever possible the target will apply and when this is not possible the Worker will attend at an agreed time having given the requesting Officer an indication of availability.

Step 2 (Reception Desk)

On arrival at the Police Station, identify yourself and give name of the individual for whom you are acting as Appropriate Adult.

Step 3 (Custody Suite)

On being shown to the custody suite, introduce yourself to Custody Sergeant; confirm young person's details, including their status and the circumstances leading to their attendance at the Police Station. Confirm that Solicitor and Interviewing Officers are present. Request to see the Custody Record.

Step 4 (Holding Cell)

- Request to see the young person in private, in order to introduce yourself and explain your role.
- Check that the conditions of detention are satisfactory, including the young person's rest, recreation and refreshment (COP C8).
- Explain in simple language to the young person that in your role you are not interested in any details of the offence itself or any admissions or denials as this could prejudice the independent and impartial support you are able to offer. Inform the young person that they are able to consult privately with you at any time especially if they are unhappy about any aspect of their detention or questioning, including the actions of their Solicitor.
- Again check whether the individual requires medical attention. If they do request that the Custody Sergeant contact the Forensic Medical Examiner (FME) or young person's own GP. If the young person is not medically fit the interview should not go ahead. If the individual alleges any Police violence a Solicitor and/or FME must be consulted. (COP (C) 9.1 and 9.2).
- Discuss with the young person who they wish to be informed of their arrest and check that this has been carried through with the Custody Sergeant.

Step 4 (Custody Desk)

- If there are any problems under Step 3, clarify them with the Custody Sergeant.
- If any cause for complaint, request details are noted upon custody record.

Step 5

As soon as the young person is arrested they should be told the reason for their arrest and :

- 1) their right to have someone informed of their arrest
 - 2) the right to consult with a solicitor either their own or duty and the fact that independent legal advice is free of charge
 - 3) the right to consult the Codes of Practice
 - 4) the fact that these are continuing rights which may be exercised at any point (COP (C) 3.1)
- The Custody Sergeant must give the young person a written notice setting out the above rights, the right to a copy of the custody record and caution, which must be given. The notice must also explain the arrangements for obtaining legal advice.
 - Custody Sergeant should now read young person their rights. Ensure that individual understands and countersign their signature on custody record.

Step 6.

The Solicitor should have already consulted with the young person. The Appropriate Adult is reminded that if this process has not already occurred it may be preferable that the Appropriate Adult does not sit in during the interview. This is in order to prevent boundaries around the role being confused. Should any information come into the possession of the Appropriated Adult during this process it may jeopardise their impartiality and may have implications at a later point should the young person be charged.

When Solicitor and interviewing Officers are ready, interview may commence. **Do not agree to any interview without a Solicitor present.**

Step 7 (interview Room)

- When moving to the interview room, ensure that the young person has clear visual access to the Solicitor and Appropriate Adult. You need to have direct eye contact with the young person throughout the interview, as well as a clear view of the

young person's body language, so that the young person can communicate any difficulties that he/she is having. It is suggested that the Solicitor sit next to the young person on the opposite side of the table to the Police Officers and that the Appropriate Adult sit at the end of the table.

- Before beginning the interview, the young person must be cautioned. Interview should be tape recorded, unless impracticable. If no recording, contemporaneous notes should be taken.
- During interview, observe that proceedings are conducted fairly, and facilitate communication with the young person. The Appropriate Adult can intervene and advise the young person with the primary role that the young person understands the questions and the process.
- The Appropriate Adult is not a Legal Advisor and their role is not to encourage, induce or prompt the young person to make any specific statements. The purpose of the interview is to gather evidence not to obtain admissions or confessions (COP (C) 11.4) *Be alert to use of oppression or harassment*. If the Appropriate Adult considers that the young person is being harassed the interview should be stopped for legal advice.
- It is helpful to make your own notes throughout the interview- these could be of value later and *must* be attached to the Appropriate Adult form and returned to the YOT.

Step 8

At end of interview countersign tapes and form witnessing detainees wishes regarding access to interview tapes.

Step 9 (Custody Desk)

- If Police decide to charge the Appropriate Adult must be present to witness.
- Accompany the young person through fingerprint and photographing process and intimate search if required.
- If you have been unhappy with any aspect of the proceedings this should be made clear to the Custody Sergeant and recorded on the custody record. Copies of the custody record can be made available as soon as possible after the detention at the request of the Appropriate Adult or Solicitor (COP (C) 2.4). Additionally concerns should be written up and reported back to YOT Manager.

Step 10

Clarify Police's wishes to hold or release, and any bail details, and ensure young person understands. The outcome of the interview could be:

- 1) released without charge-no further action
- 2) released on bail-either to the Police Station or Court
- 3) remanded into local authority accommodation
- 4) detained in Police custody

Countersign bail form and property return if required.

Step 11

- Escort the young person home if appropriate i.e. if the young person is accommodated by the local authority or subject to a full Care Order. If the young person is accommodated by another Local Authority liaise with the home borough re travel arrangements home. In all other cases escort home is the responsibility of a 'responsible person' not specified as the Appropriate Adult.
- If young person is to be detained contact the YOT to make enquiries re local authority secure accommodation as an alternative provision for this. (EDT will have separate procedures)
- Parent/Carer to be informed either in person or by telephone of the proceedings and outcome if appropriate. This should be followed up by a standard letter offering specific details within 12 hours(see Appendix B) or in the case of EDT the next working day.

Please note it is expected that the Emergency Duty Team will assume responsibility for all Appropriate Adults from 5pm onwards. Requests for Appropriate Adults expected to continue beyond this point will be negotiated between teams.

Appendix B.

Dear

I am writing to inform you that _____ was taken to
Police Station on _____ at _____ am/pm.

When the Police arrest a young person under the age of 17 years they must obtain the services of an Appropriate Adult to ensure that the young person is treated in accordance with Police procedures. This person is usually the young person's parent/carer. However if they cannot attend, the local Youth Offending Team is contacted.

In this instance, I attended the Police Station as a representative of this team.

Was arrested because

And was _____ released and no further action will be taken.

_____ immediately given a Reprimand or Final Warning.

Released whilst the matter is being investigated by the Police and
must go to _____ Police Station on _____ at _____
am/pm.

Charged and bailed to appear at _____ Court on
at _____ am/pm.

A parent or carer will be required to attend any further Police Station or Court dates.

If you require any further information or assistance please feel welcome to contact me on the above number.

Yours sincerely,

**CHECK LIST FOR OFFICERS REQUESTING AN
APPROPRIATE ADULT.**

*** Please ensure that the below information is given to the Appropriate Adult at the time of the request. Please tick where information is provided and return completed form to YOT manager. Where information is not provided please state reason for this.**

Date	()	Time	()
Referrer	()	Tel	()
Police Station	()	Tel	()
Relevant Officers	()		

Detainee's name	()		
Date of Birth	()	Age	()
Gender	()	Ethnicity	()
Address	()	Tel	()

Name of parent/carers if relevant ()
Address if different to detainee ()

Time of detainee's arrival at Police Station:	()
Police Intentions (e.g. interview, charge etc)	()
When did Police attempt to contact parent/carers and how	()
Reason for non-attendance	()
Has a solicitor been contacted	()
Name, company and tel. of solicitor	()
Is an interpreter required	()
If so name, organisation and tel.	()