

Observations on PACE C safeguards and defining vulnerability

Written by **Dr Roxanna Dehaghani**

An appropriate adult is required for people who are considered 'vulnerable', according to Code C to the *Police and Criminal Evidence Act 1984 (PACE)*.

However, research has consistently shown that there are issues with how the appropriate adult safeguard is carried out.¹ Through a research method called ethnography – which involved observation of and interviews with custody officers over six months – I was able to explore in more detail the reasons why.

The first reason that I have found is that of definition: vulnerability in adults can be interpreted in many ways. Some suspects that could be considered vulnerable according to Code C were not considered in this way by custody officers. Custody officers often found the terms 'mentally vulnerable' and

'mentally disordered' difficult to describe. Indeed, these terms can be narrowly or broadly interpreted. Custody officers also separated out those who were genuinely vulnerable and those who were pretending to, for example, gain sympathy or manipulate custody staff during their detention. Those who 'presented well' were thought to not need additional support. Such assumptions were reinforced by healthcare staff.

To further complicate matters, vulnerability was seen as difficult to identify. This is what many previous studies have found. The risk assessment is not necessarily geared towards identifying mental health issues and is limited when identifying learning disabilities or difficulties (see McKinnon and Grubin 2010). Certain questions also lean towards misguided stereotypes such as whether the suspect went to a 'special school'; many vulnerable people go to mainstream schools and would therefore not 'tick' this particular box (see Bradley 2009). Suspects may be reluctant to give personal and sensitive information in the, often busy, police custody environment or may give flippant answers if they are intoxicated. The observation that custody officers are not mental health workers, while tired, is nevertheless accurate.

Finally, custody officers will also consider whether the case is likely to be examined; the

likelihood of this is lower if the case is unlikely to go to the Crown Court. It must also be recognised that custody officers are often working within a busy and pressurised environment.

Cuts to frontline staff are increasing, thus increasing pressure on staff. Appropriate adults can often be difficult to find. This may stop a custody officer from flagging the issue. The law is also vague and often quite difficult to understand; as custody staff probably know, Code C is a longwinded and complicated piece of soft law with many cross-references, annexes and notes.

It remains to be seen whether changes to the Codes of Practice will result in changes to how the appropriate adult safeguard is used in practice.

It is possible that the functional test (see Code C) could lead to positive changes. However, many issues remain: appropriate adult provision is not consistent across England and Wales, the safeguard for adults does not exist on a statutory basis, custody suites are busy and pressurised (and cuts to the police budget will do nothing to help this), and custody officers may not have the adequate knowledge or training to tell whether a person is vulnerable. The changes to Code C may serve only to complicate matters.



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1. (Bean and Nemitz 1995; Bradley 2009; Brown, Ellis, and Larcombe 1992; Bucke and Brown 1997; Dehaghani 2016; Dehaghani 2017; forthcoming; Gudjonsson et al 1993; Irving and McKenzie, 1989; Medford, Gudjonsson and Pearse 2003; National Appropriate Adult Network 2015; Palmer and Hart 1996; Phillips and Brown 1998. See also Bradley 2009; Cummins 2007; McKinnon and Grubin 2010).

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